

TOWN OF FORT MYERS BEACH
ORDINANCE NO. 96-08

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH ANIMAL CONTROL ORDINANCE; PROVIDING AUTHORITY; TITLE AND CITATION; DEFINITIONS; ESTABLISHMENT OF TOWN POUND; ANIMAL CONTROL ENFORCEMENT AGENCY; PROHIBITIONS AGAINST CRUELTY TO ANIMALS; ADOPTION BY REFERENCE; FLORIDA STATUTES RELATING TO ANIMAL CONTROL, ANIMAL WELFARE AND ANIMAL CRUELTY; MALICIOUSLY HARMING OR KILLING ANIMALS; POISONING ANIMALS; FIGHTING OR BAITING OF ANIMALS; STERILIZATION OF DOGS AND/OR CATS RELEASED FROM ANIMAL SHELTER FACILITY; NUISANCE ANIMALS; MUSCOVY DUCKS NUISANCE; CONCEALMENT OF ANIMALS; PROHIBITING ANIMALS FROM ROAMING AT-LARGE; FAILURE TO EXERCISE CONTROL OVER VICIOUS ANIMALS; FAILURE TO CONFINED FEMALE DOGS AND/OR CATS IN SEASON; OPPOSING AN ANIMAL CONTROL OFFICER, HEALTH OFFICIAL, DAMAGING ANIMAL SHELTER FACILITY, RELEASING ANIMALS; ENFORCEMENT OF VIOLATIONS; REDEMPTION AND DISPOSITION OF IMPOUNDED AND UNWANTED ANIMALS; SCHEDULE OF FEES; PROVIDING FOR THE REPORTING OF PERSONS BITTEN OR SCRATCHED BY ANIMALS AND QUARANTINE OF ANIMALS FOR RABIES OBSERVATION; SURRENDER OF CARCASS OF RABID ANIMAL; LICENSING AND VACCINATION REQUIREMENTS FOR DOGS AND CATS; ISSUANCE OF LICENSE CERTIFICATES AND TAGS FOR DOGS AND CATS; LICENSE FEE; ATTACHMENT OF THE LICENSE TAG TO THE COLLAR OR HARNESS OF DOGS; ISSUANCE OF DUPLICATE TAGS AND TRANSFER OF OWNER; EXCEPTION TO VACCINATION REQUIREMENTS; INSPECTION OF COMMERCIAL ANIMAL ESTABLISHMENTS; DISPOSAL OF DEAD BODIES OF OWNED ANIMALS; ANIMALS IN MOTOR VEHICLES; HUMANE TREATMENT OF ANIMALS; SEVERABILITY; REPEALING CLAUSE; AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION ONE: Authority

This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO: Title and Citation

This Ordinance shall be known and cited as the "Town of Fort Myers Beach Animal Control Ordinance."

SECTION THREE: Definitions

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The words "shall" and "will" are mandatory and not discretionary.

A. ABANDON - to give up possession of, to neglect, to refuse to provide for or to perform the obligation for care and support of an animal by its owner or the owner's agent.

B. AGENCY - Town of Fort Myers Beach Control Agency.

C. ANIMAL - every living non-human dumb creature.

D. ANIMAL ROAMING AT LARGE - any animal not under the restraint, confinement or control, whether by voice or leash, of the owner or owner's agent.

E. ANIMAL CONTROL ENFORCEMENT AGENCY - an entity composed of persons and officers which has full and complete authority to enforce the provisions, regulations and requirements of this Ordinance and applicable Laws of the State of Florida relating to animal control and cruelty to animals.

F. ANIMAL SHELTER - a facility provided by the Town of Fort Myers Beach or the Humane Society for the purpose of impounding animals under the authority of this ordinance or Law of the State of Florida for care, confinement, quarantine, shelter, return to owner, adoption or humane euthanasia.

G. AUCTION - any location or facility where animals are regularly bought, sold or traded to the highest bidder except as otherwise defined in this ordinance. This definition does not apply to individual sales of animals by owners.

H. BAITING - means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in fights with or among other animals. Additionally "Baiting" means the use of live animals in the training of racing greyhounds.

I. CITATION - the form used to cite owners or custodian for any violations of this Ordinance or of the applicable Laws of the State of Florida.

J. COMMERCIAL ANIMAL ESTABLISHMENT - any pet shop, animal grooming

shop, flea market, department store, guard dog training facility, auction, riding school, stable, any type of kennel, cattery, circus, or a performing animal exhibition.

K. CRUELTY TO ANIMALS - as defined in section 828.12 Florida Statutes, any act, omission or neglectful behavior whereby unnecessary or unjustifiable pain or suffering is caused to an animal.

L. DOMESTIC ANIMAL - an animal kept for pleasure and/or companionship rather than utility: an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent upon people for food, shelter and survival.

M. EUTHANASIA - The humane killing of an animal that is hopelessly sick, injured or unclaimed. In the case of dogs and cats by injection of sodium pentobarbital as defined in Section 828.058, Florida Statutes.

N. FARM ANIMAL - any animal kept for utility or pleasure, but not used in the preparation of meat.

O. GROOMING SHOP - A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

P. GUARD DOG - any dog that is trained to detect, attack and/or warn that an intruder is present in or near any area that is being secured.

Q. HEALTH DEPARTMENT - Lee County Health Department.

R. HUMANE CAPTURE METHODS - use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

S. HUMANE MANNER - a manner consistent with the physical and behavioral needs of a species: including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the animal's size, species and breed to include veterinary care to prevent or cure diseases or suffering from injuries.

T. HUMANE TRAP - a device used to capture animals, that does not cause injury to the animal upon capture or confinement.

U. KENNEL or CATTERY - any premises where animals are kept for profit rather than pleasure, by boarding, grooming, buying, training, selling, letting-for-hire or offering of stud services. Animal hospitals maintained by a Florida licensed veterinarian, shelters operated by tax-exempt Humane Society shelters shall not be considered commercial kennels or catteries.

V. LIVESTOCK - all cattle, calves, sheep, swine, horses, mules,

goats, poultry or any other animals used in and for utility or preparation of meat or meat products.

W. OFFICIAL HEALTH RECORD - a certificate signed by a licensed veterinarian that shows the age, sex, breed, description and health record of a dog or cat and name, address and phone number of the owner or agent of the owner.

X. OWNER - any person, or any person's agent, who owns, keeps, harbors or controls one or more animals for three consecutive days or more.

Y. PERSON - natural person or persons, firm, association, corporation or any other entity, legal or otherwise.

Z. PET SHOP a store, person, partnership, corporation or franchise operation whether operated separately or in connection with another business enterprise that buys, sells or boards any species of animal for a fee or reimbursement.

AA. QUARANTINE - the keeping of an animal in an enclosure approved by the County Health department for a ten day period for rabies observation.

BB. SECURE ENCLOSURE OR RESTRAINT - the restraint of an animal by fence, building, chain, cage, crate or other enclosure that prevents such an animal from running at large.

CC. VETERINARY CARE - medical treatment by a licensed Veterinarian having as its purpose the prevention of disease, suffering and/or injuries.

DD. VICIOUS ANIMAL any animal that attacks, bites, scratches or other wise injures human beings, domesticated or other animals without provocation, or which, because of temperament, conditioning or training has a history of attacking, biting or injuring human beings, domesticated or other animals.

EE. WARNING NOTICE - form used to notify owner or custodian or existing violation of this ordinance.

FF. WILD ANIMAL - any non-domesticated member of the animal kingdom including those born or raised in captivity not dependent upon human beings for survival.

GG. ZOOLOGICAL PARK - any facility operated by a person, partnership, corporation or government agency other than a pet shop or kennel displaying or exhibiting one or more species of animal.

SECTION FOUR: Establishment of Town Pound

The Town Council may, by adoption of a resolution, establish,

create, construct, operate or have operated and maintain an animal shelter, to provide animal control services for the Town of Fort Myers Beach. The shelter shall be of adequate size and design for the safe confinement of animals.

SECTION FIVE: Animal Control Enforcement Agency

The Town Council may, by adoption of a resolution, establish The Town of Fort Myers Beach Animal Control Enforcement Agency. It shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated as Animal Control Officers shall have the authority to issue citations and to enforce this Ordinance and the Laws of the State of Florida relating to animals.

SECTION SIX: Prohibitions Against Cruelty to Animals

A. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death upon any animal located within the Town of Fort Myers Beach.

B. It shall be unlawful to procure an animal for such purposes.

C. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death of an animal for sacrificial purposes, including consumption during a sacrifice ceremony, and for any person to molest or penetrate any animal or use the body parts of an animal for sexual gratification.

D. No person other than a licensed veterinarian shall crop the ears or tail of any dog.

E. The slaughter of either domestic or wild animals for food purposes (including, but not limited to all lawful hunting activities) is exempt from the provisions of this Section.

SECTION SEVEN: Adoption by Reference; Florida Statutes Relating to Animal Control, Animal Welfare and Animal Cruelty

This ordinance hereby adopts by reference, all Laws of the State of Florida relating to Animal Control, Animal Welfare and Animal Cruelty.

SECTION EIGHT: Maliciously Harming or Killing Animals

It shall be unlawful for any person to maliciously and intentionally harm or kill any animal for no lawful purpose, or to aid, abet or assist in the malicious harming or killing of said animal. Each such animal so harmed or killed shall constitute a separate offense.

SECTION NINE: Poisoning Animals

It shall be unlawful for any person to leave or deposit any poisonous or injurious substance in any common street, alley, lane or thoroughfare of any kind, or in any yard or enclosure for the purpose of inflicting injury or killing an animal.

SECTION TEN: Fighting or Baiting of Animals

It shall be unlawful for any person to promote animal fights or animal baiting within the Town of Fort Myers Beach. It shall be unlawful for a person to knowingly own, manage or operate any facility kept or used for the purpose of fighting or baiting any animal to include the promoting, staging, advertising or charging of any admission fee to a fight or baiting between two or more animals, to include the betting or wagering of any money or other valuable consideration on the fighting or baiting of animals or to attend the fighting or baiting of animals.

SECTION ELEVEN: Sterilization of Dogs and/or Cats Released From Animal Shelter Facility

No unclaimed dog or cat shall be released for adoption without being sterilized unless the adopter signs a written agreement guaranteeing that such animal will be sterilized within thirty (30) days for adult animals or by a specified future date for pups and kittens. Lee County Animal Control Officers are authorized to issue citations for failure to sterilize any cat or dog adopted from the animal shelter.

SECTION TWELVE: Nuisance Animals

A. It shall be unlawful for any owner to fail to care for or control the owner's animals, or to allow them to become a nuisance. For purposes of this ordinance, "nuisance" Shall mean: to cause, permit or allow an animal to defecate or urinate upon the sidewalk of any public street or on the property of another or in any public park or beach. The owner of every animal shall be responsible for the removal of any excreta deposited by that animal on public walks, recreation areas or private property or any other place where such excreta deposits may create a nuisance injurious to the public health as defined in Florida Statute Chapter 386.

B. It shall be unlawful to:

(1) permit or allow any animal to make disturbing noises, including, but not be limited to: barking, howling, whining, screeching or other utterances causing unreasonable annoyance, discomfort or disturbance of the peace of persons.

(2) allow any animal to roam at-large.

(3)) to allow any animal to damage the property of anyone other than its owner.

(4) to allow any animal to roam on school grounds or in the area of school vehicles.

(5) to allow any animal to cause unsanitary conditions in enclosures or surroundings where the animal is kept or confined, as determined by the Health Department to be unsanitary.

(6) keep any animals that are offensive or dangerous to the public health, safety or welfare by virtue of the number and/or types of animals maintained.

(7) allow any animal to disturb or turn over any garbage containers.

C. No person shall offer a bounty for the collection or the elimination of any animal determined to be a nuisance under the provision of this ordinance.

SECTION THIRTEEN: Muscovy Ducks Nuisance

The Agency and the Health Department are hereby given the authority to declare unsanitary conditions created by Muscovy ducks to be a health nuisance. If a health nuisance is determined to exist, the Animal Control Agency may break the eggs of, may relocate or humanely euthanize Muscovy ducks.

SECTION FOURTEEN: Concealment of Animals

It shall be unlawful for any entity to confine, hide or conceal any animal to which it does not have legal title; or any animal which has been involved in a bite or scratch or rabies exposure incident for which formal investigation is pending, unless that entity shall have reported possession of such animal to the Agency within twenty four (24) hours after acquiring possession of the animal or within twenty-four (24) hours after making reasonable attempts to locate its owner.

SECTION FIFTEEN: Prohibiting Animals From Roaming At-large

It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, domestic, livestock, farm, wildlife or fowl raised in captivity, to permit or allow the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, beaches, parks or on the private property of others without the consent of the owner of such property.

SECTION SIXTEEN: Failure to Exercise Control Over Vicious Animals

It shall be unlawful for the owner of any vicious animal, or guard dog to fail to confine such animal in a building or in a secure enclosure. It shall be unlawful for any person to release a vicious animal, either willfully or by failure to exercise due care. Anyone utilizing the service by hire of a guard dog trained to attack an intruder, must post warning signs openly displayed at the entrance to the property. It shall be unlawful for anyone to utilize the services of a guard dog in any food establishment within Lee County. The owner of any animal shall be responsible for all damages to the person of another, the animal of another or the property of another caused by that animal.

SECTION SEVENTEEN: Failure to Confine Female Dogs and/or Cats in Season

It shall be unlawful for the owner of any female dog or cat in season to fail to keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel to prevent such dog or cat coming into contact with another dog or cat except for intentional breeding purposes.

SECTION EIGHTEEN: Opposing an Animal Control Officer, Health Official, Damaging Animal Shelter Facility, Releasing Animals

It Shall be unlawful for any person to oppose, resist, obstruct or in any manner prevent an Animal Control Officer or health official from performing the officer's duty. It shall also be unlawful to tear down, burn, deface, destroy or otherwise injure any animal shelter or vehicle or to release or remove any animal from the custody of an Animal Control Officer or animal control shelter. Each commission of an assault and/or battery upon an Animal Control Officer or health official shall be deemed a separate offense, punishable in accordance with Florida State Statutes.

SECTION NINETEEN: Enforcement of Violations

Animal Control Officers shall have the authority to impound any animal in violation of this ordinance by using recognized capture techniques and methods. Such methods and techniques may include but not be limited to: leashes, control poles, nets, humane traps and tranquilizer equipment. Animal Control Officers shall have the authority to impound any animal found to be cruelly treated. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination. Animal Control Officers, on determining that a violation of this Ordinance has occurred, may issue a citation or warning notice to the owner. The citation criteria set forth in Chapter 828.27, Florida Statutes are hereby adopted.

SECTION TWENTY: Redemption and Disposition of Impounded and Unwanted Animals

Any animal impounded under the provision of this ordinance and not redeemed by its owner after three (3) consecutive days shall become the property of Lee County Humane Society. The three (3) day period does not apply to sick, injured, diseased or wild animals regulated by state wildlife agencies and may be extended at the discretion of the Agency pending notification of owner. The Agency may utilize the services of a veterinarian to treat sick, injured or diseased animals. The owner shall be responsible for all such costs incurred.

Any person seeking to redeem or reclaim an animal impounded under the provisions of this ordinance shall pay the impoundment fees, boarding fees, license fees and all other fees resulting from impounding and caring for the animal. Any animal to be released from the pound, must have a prior license or a license must be obtained by the owner. Upon payment of the license fee, the animal will be released to its owner or assignee, who then must have the animal vaccinated for rabies by a licensed veterinarian. The certificate of vaccination must be returned to the Animal Control Enforcement Agency within seven days (or a specified date for puppies or kittens) as a prerequisite to issuance of the license.

An owner whose animal has been impounded for a second time within one year may be charged a double impoundment fee. The Animal Control Officer is hereby given the authority to issue citations for mandatory appearance in court in subsequent impoundment violations.

When the ownership of an animal is deemed questionable the Animal Control Enforcement Agency shall require proof of ownership. Proof of ownership may include license receipt, veterinary records, affidavits from neighbors, photographs or other reliable documentary evidence.

SECTION TWENTY ONE: Schedule of Fees

The schedule of fees is set forth as follows:

Impoundment fees:	Dog	\$25.00
	Cat	\$10.00
	Livestock/Farm	\$25.00
	Misc./Small	\$ 5.00
	Vicious animals	\$50.00
Quarantine fee:	For all animals	\$50.00
Non-impoundment Pickup fee	All	\$10.00
Board per Diem:	Dog	\$ 4.00
	Cat	\$ 3.00
	Livestock/Farm	\$ 5.00
	Misc./Small	\$ 2.00

SECTION TWENTY TWO: Providing for the Reporting of Persons Bitten or Scratched by Animals and Quarantine of Animals for Rabies Observation

Any dog or cat that bites or scratches a person shall be impounded by Animal Control and held in quarantine for a minimum period of ten (10) days from the date of bite or scratch, for rabies observation at the Animal Control shelter or a veterinary clinic in Lee County. Information regarding the animal's description, current rabies vaccination date, owner's name, address and telephone number: the address and telephone number of person bitten or scratched and location of wound shall be reported to the Health Department. If the dog or cat has a current rabies vaccination and a current license, the Animal Control Officer, with the approval of the Health Department, may allow the animal to be quarantined at home if and only if the animal has not bitten someone previously. It shall be a violation of this ordinance for any person to refuse to surrender a ny dog or cat for quarantine. Any dog or cat t ha t dies or is humanely euthanized while under quarantine shall be decapitated without mutilation and the head sent to the State Board of Health for pathological examination. All other animals (except dogs or cats) which bite or scratch a person shall not be quarantined, but shall be impounded until instructed by the Health Department as to its disposition.

It is a violation of this Ordinance for anyone to kill or remove from Lee County, Florida, without the express written consent of the Health Department, any of the following:

1. any rabid animal:
2. any animal suspected of rabies, any other infectious or contagious disease:
3. any animal exhibiting unusual behavior:
4. any animal which scratches or bites a person, or
5. any animal under quarantine.

Whoever does so, shall be guilty of a misdemeanor in the second degree, for each separate offense, and be subject to the maximum fine as prescribed by State Law.

SECTION TWENTY THREE: Surrender of Carcass of Rabid Animal

Any person who, upon demand, does not surrender the carcass of any dead animal exposed to rabies to the Lee County Health Department, shall be guilty of a misdemeanor of the second degree, for each separate offense.

SECTION TWENTY FOUR: Licensing and Vaccination Requirements for

Dogs and Cats

Every person who owns, keeps or harbors, within the Town of Fort Myers Beach, any dog or cat over the age of four (4) months must have the animal licensed. No license shall be issued unless the dog or cat has been vaccinated against rabies and has a certificate of vaccination issued by a licensed veterinarian. Such license and vaccination certificate shall be valid for one year from date of issue. The license certificate shall have printed thereon an identification number together with the date, type of vaccine administered, the veterinarian who administered the vaccine, the name of the person issuing the license, the name address and telephone number of the owner, the breed, age, sex, color and markings of the animal, whether the animal has been spayed or neutered and any other features which may help identify the animal.

Failure to properly license any dog or cat as outlined above shall be a violation of this Ordinance, and shall constitute a misdemeanor of the second degree.

Seasonal non-resident owners of animals who reside in Lee County for less than ninety (90) days per year are exempt from the license requirement providing they have a receipt showing a current rabies vaccination no more than one year old.

SECTION TWENTY FIVE: Issuance of License Certificates and Tags for Dogs and Cats

Upon payment of the fee and submittal of a certificate of rabies vaccination, a license may be issued. Each animal so licensed shall be issued a (1) license certificate and a (2) metallic license tag. Such tag shall be impressed with a license identification number which corresponds to the number on the license certificate. No license identification tag issued for one animal shall be considered valid for any other animal. The license certificate and tag may be issued by the Agency or any licensed practicing veterinarian in Lee County. Certificates shall be executed in triplicate, a copy of the license certificate shall be given to the owner, one to the Animal Control Department and one to the veterinarian.

SECTION TWENTY SIX: License Fee

The Town of Fort Myers Beach License fee is hereby established to be four dollars and fifty cents (\$4.50), which may be changed by resolution of the Town Council from time to time. The fee is payable to the authorized agency or the authorized veterinarian. License fees are not required for certified seeing-eye leader dogs, hearing dogs, governmental police dogs, or other certified dogs trained to assist the physically handicapped, but such animals must be licensed and must have received their rabies vaccination.

SECTION TWENTY SEVEN: Attachment of the License Tag To The Collar or Harness of Dogs

The metallic license tag must be attached to the collar or harness of all dogs, which tag must be worn at all times. Dogs participating in dog shows, while hunting, while in training, or while participating in sporting events are exempt from this provision. However, the owner shall have in the owner's immediate possession the dog's license tag at all times when the dog is not wearing its collar. No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identity of the animal.

Cats are specifically exempt from the wearing of a collar for the display of the license tag.

SECTION TWENTY EIGHT: Issuance of Duplicate Tags and Transfer of Owner

A duplicate license may be issued if the original is lost or destroyed. The charge for a duplicate tag is one dollar (\$1.00). If a change of ownership of a dog or cat occurs during the license year, the new owner may have the license transferred upon the payment of a transfer fee of one (\$1.00) dollar.

SECTION TWENTY NINE: Exception to Vaccination Requirements

No dog or cat shall require rabies vaccination if a licensed veterinarian has examined the animal and certified that vaccination would endanger its health. A license will be issued by the Agency upon presentation of an explanatory letter from the veterinarian and payment of the fee.

SECTION THIRTY: Inspection of Commercial Animal Establishments

The Animal Control Officer shall have the authority to inspect any commercial animal establishment in Lee County for the purpose of ascertaining violations of this ordinance or of Florida State Statutes as to cruelty to animals. No person or commercial animal establishment shall display, sell, offer for sale or give away any breed of animal with a recorded propensity toward rabies, for which there is no American Veterinary Medical Association approved rabies vaccination available.

SECTION THIRTY ONE: Disposal of Dead Bodies of Owned Animals

Upon the death of animal, the owner shall be responsible for disposing of the carcass by burial at least two (2) feet below the surface of the ground. The alternative method of disposal of cremation at an approved licensed crematory is authorized. Nothing in this section prohibits the disposal of animal carcasses to rendering companies licensed to do business in this State. It

is unlawful to dispose of the carcass of any domestic animal by dumping the carcass on public property, road or right-of-way, pursuant to Section 823.041, Florida Statutes.

SECTION THIRTY TWO: Animals In Motor Vehicles

The operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation Under conditions Which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death. Any Animal Control Officer or law enforcement officer who observes an animal in a motor vehicle in obvious distress may enter the motor vehicle by any means necessary, to remove and impound the animal or take the animal to a veterinarian if necessary. If the owner of said animal cannot be contacted, the Animal Control Officer Or law enforcement officer shall leave in a prominent place in Or up on the vehicle, a written notice as to the reason for r e m o v a l of the animal. Both the owner Of the animal and the owner of the motor vehicle are responsible for the costs incurred as the result of this authorized action.

SECTION THIRTY THREE: Humane Treatment of Animals

A. It is unlawful for any person to dye or artificially color any animal or fowl, including but not limited to rabbits, baby chickens and ducklings, or to bring any dyed or colored animal or fowl into this Town.

B. It is unlawful for any person to sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under 4 weeks of age, or rabbits under 2 months of age to be used a pets, toys or retail premiums.

C. Any person violating the provisions of this section shall upon conviction be guilty of a misdemeanor of the second degree. punishable as provided for in Florida Statutes 775.082 or 775.083.

SECTION THIRTY FOUR: Severability

If any one of the provisions of this ordinance should be held contrary to any express provision of law of contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever beheld invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance , and in no way affect the validity of all other provisions of this ordinance.

SECTION THIRTY FIVE: Repealing Clause

All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION THIRTY SIX: Effective Date

This ordinance shall become effective September 30, 1996.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member ISLER and seconded by Council Member FitzSimons and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 1st day of July, 1996.

ATTEST:

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

ORDINANCE No. 00- 08

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES CHAPTER 21, TOWN OF FORT MYERS BEACH ANIMAL CONTROL ORDINANCE; PROVIDING AUTHORITY; AMENDMENT TO DEFINITIONS; DELETING ESTABLISHMENT OF TOWN POUND; AMENDMENT TO ANIMAL CONTROL ENFORCEMENT AGENCY; PROHIBITIONS AGAINST CRUELTY TO ANIMALS; ADOPTION BY REFERENCE; FLORIDA STATUTES RELATING TO ANIMAL CONTROL, ANIMAL WELFARE AND ANIMAL CRUELTY; DELETING MALICIOUSLY HARMING OR KILLING ANIMALS; ADDING THREATENING OR MENACING BEHAVIOR; DELETING POISONING ANIMALS; ADDING VICIOUS ANIMALS; FIGHTING OR BAITING OF ANIMALS; STERILIZATION OF DOGS AND/OR CATS RELEASED FROM ANIMAL SHELTER FACILITY; NUISANCE ANIMALS; MUSCOVY DUCKS NUISANCE; CONCEALMENT OF ANIMALS; PROHIBITING ANIMALS FROM ROAMING AT-LARGE; DELETING FAILURE TO EXERCISE CONTROL OVER VICIOUS ANIMALS; AMENDMENT TO FAILURE TO CONFINE FEMALE DOGS AND/OR CATS IN SEASON; OPPOSING AN ANIMAL CONTROL OFFICER, HEALTH OFFICIAL, DAMAGING ANIMAL SHELTER FACILITY, RELEASING ANIMALS; ENFORCEMENT OF VIOLATIONS; REDEMPTION AND DISPOSITION OF IMPOUNDED AND UNWANTED ANIMALS; SCHEDULE OF FEES; PROVIDING FOR THE REPORTING OF PERSONS BITTEN OR SCRATCHED BY ANIMALS AND QUARANTINE OF ANIMALS FOR RABIES OBSERVATION; SURRENDER OF CARCASS OF RABID ANIMAL; LICENSING AND VACCINATION REQUIREMENTS FOR DOGS, CATS AND FERRETS; ISSUANCE OF LICENSE CERTIFICATES AND TAGS FOR DOGS, CATS AND FERRETS; LICENSE FEE; DELETING ATTACHMENT OF THE LICENSE TAG TO THE COLLAR OR HARNESS OF DOGS; AMENDMENT TO ISSUANCE OF DUPLICATE TAGS AND TRANSFER OF OWNER; DELETING EXCEPTION TO VACCINATION REQUIREMENTS; AMENDMENT TO; INSPECTION OF COMMERCIAL ANIMAL ESTABLISHMENTS; DISPOSAL OF DEAD BODIES OF OWNED ANIMALS; ANIMALS IN MOTOR VEHICLES; HUMANE TREATMENT OF ANIMALS; ADDING NEW SECTIONS, IMPOUNDMENT OF ANIMALS FOUND IN DISTRESS AND GUARD DOGS; PROVIDING SEVERABILITY; AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION ONE. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO. Title and Citation. This ordinance shall be known and cited as the "Town of Fort Myers Beach Animal Control Ordinance."

SECTION THREE: Definitions of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The words "shall" and "will" are mandatory and not discretionary.

ABANDON: To give up possession of, to neglect, to forsake an animal entirely or to refuse to provide or perform the legal obligations for care and support of an animal by its owner or owner's agent.

ADEQUATE FOOD: Uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition, and as defined in 9 Code of Federal Regulations, Section 3.9, Subchapter A, Part 3, Subpart A.

ADEQUATE WATER: A continual access to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, and in sufficient amounts to maintain good health. Such water will be provided in a secure manner so that the container cannot be overturned.

ADEQUATE SHELTER: A structurally sound, properly ventilated, sanitary and weather-proof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and protection from exposure to inclement weather.

ADEQUATE HEALTH CARE: The provision to each animal of all immunizations and preventative care required to maintain good health, and the provision to each sick, diseased or injured animal of veterinary care or humane death.

AGENCY: ~~Town of Fort Myers Beach Control Agency.~~

ANIMAL: Every living ~~non-human~~ dumb creature.

ANIMAL ROAMING AT LARGE: Any dog not under the restraint, and any animal not in confinement or direct control by leash of the owner or his agent, as defined further herein.

ANIMAL CONTROL ENFORCEMENT AGENCY: An entity composed of persons and officers which have full and complete authority to enforce the provisions, regulations and requirements of this ordinance and applicable laws of the State of Florida relating to animals and animal cruelty.

ANIMAL CONTROL OFFICER: Any person employed or appointed by Lee County who is authorized to investigate, pursuant to law, civil infractions or criminal offenses relating to Animal Control or animal cruelty, and to issue citations as provided in this ordinance, and to file charges based on such investigation.

~~ANIMAL SHELTER: a facility provided by the Town of Fort Myers Beach or the Humane Society for the purpose of impounding animals under the authority of this ordinance or~~

~~Law of the State of Florida for care, confinement, quarantine, shelter, return to owner, adoption or humane euthanasia.~~

~~AUCTION: any location or facility where animals are regularly bought, sold or traded to the highest bidder except as otherwise defined in this ordinance. This definition does not apply to individual sales of animals by owners.~~

AUCTION: Any facility or place where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sale of animals by owners.

BAITING: To attack with violence, to provoke or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. "Baiting" also means the use of live animals in the training of racing greyhounds or dogs use in "Hog Dog Rodeos", or any other performing animal exhibition.

BOARD: The Board of County Commissioners of Lee County, Florida

CITATION: The form used to cite owners or eustodian agents for any violations of this Ordinance, or of the applicable laws of the State of Florida.

COMMERCIAL ANIMAL ESTABLISHMENT: Any pet shop, animal grooming shop, flea market, department store, guard dog training facility, ~~auction~~ riding school, ~~stable~~, any type of kennel, cattery, zoological park, circus or a performing animal exhibition; or any other premises or property where animals are kept as part or whole of a business concern. Bonafide commercial agricultural animal establishments are excluded from this definition, with the exception of cruelty to animal investigations as authorized in Section XXVI.A of this ordinance.

COUNCIL: The Town Council of the Town of Fort Myers Beach

CRUELTY TO ANIMALS: As defined in Chapter 828.12 Florida Statutes, any act, omission or neglectful behavior whereby unnecessary or unjustifiable pain or suffering is caused to an animal, Florida Statutes as it may be amended from time to time.

DESIGNEE: Person designated to fulfill the role in the absence of the Public Safety or Animal Control Director.

DIRECT CONTROL: Shall mean immediate and continuous physical control of an animal at all times; such as by means of a fence, leash, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property).

DOMESTIC ANIMAL: Any animal kept for pleasure enjoyment and/or companionship rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent upon people for food, shelter and survival.

DOWNER: Any animal that is nonambulatory.

EUTHANASIA: The humane killing and painless putting to death of an animal that is hopelessly sick, injured or ultimately unclaimed. In the case of dogs and cats, by injection of sodium pentobarbital as defined in Chapter 828.058 Florida Statutes, as it may be amended, from time to time.

FARM ANIMAL: Any animal kept for utility or pleasure, but not used in the preparation of meat.

FERAL ANIMAL: Any animal that is not socialized to humans and is not approachable, nor able to be handled, and/or is unpredictable in its behavior due to fear.

GROOMING SHOP: Any commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

GUARD DOG: Any type of dog that is trained to detect, attack and/or warn that an intruder is present in or near any area that is being secured used primarily for the purposes of defending, patrolling or protecting property or life.

GUARD DOG REGISTRATION: The process of presenting a guard dog to the Animal Control Agency for purposes of documenting pertinent data of the dog, which shall include name, address and telephone number of the guard dog service, the service's manager, the owner (if other than the service), and/or the handler; the dog's breed, sex, color, microchip registration number (if applicable); certification of rabies vaccination; and other distinguishing physical characteristics of the animal, and any "stop attack/release" commands.

GUARD DOG SERVICE: Any person, firm or corporation which trains, sells, rents, leases or loans guard dogs for the purpose of defending, patrolling or protecting properties or persons.

GUIDE DOG: A properly trained dog certified by a licensed seeing-eye, hearing-ear-dog, or helper dog agency, and actually being used by a visually/hearing impaired or handicapped person.

EXOTIC SPECIES: Any animal whose natural habitat is outside the continental United States, excluding non-venomous reptiles and fish.

HEALTH DEPARTMENT: Lee County Health Department.

HOBBY BREEDER: A person owning and breeding purebred dogs or cats, whose primary purpose is for exhibition and improvement of their specific breed, and not for financial gain.

HUMANE CAPTURE METHODS: Use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

HUMANE MANNER: A manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species and breed; including necessary veterinary care. to prevent or cure diseases or suffering from injuries.

HUMANE CAPTURE METHODS: use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

HUMANE METHOD:

A) A method of slaughter whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that are rapid and effective, before being shackled, hoisted, thrown, cast or cut, or:

B) A method of slaughter in accordance with ritual requirements of any religious faith whereby the animal suffers loss of consciousness by anemia of the brain, cause by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

HUMANE TRAP: A device used to capture animals which does not cause injury to the animal upon capture or confinement.

IMPLIED OWNER: Any person who is harboring an animal without ownership being openly or directly expressed.

KENNEL OR CATTERY: Any premises where animals are kept for profit rather than enjoyment, by boarding, grooming, buying, training, selling, letting-for-hire or offering of stud services. Animal hospitals maintained by Florida licensed veterinarians, shelters operated by the Board of County Commissioners or tax exempt animal care facility shall not be considered commercial kennels or catteries.

LIVESTOCK: all cattle, calves, sheep, swine, horses, mules, goats, poultry or any other animals As defined in 828.23, F.S., means all animals of the bovine, equine, or swine class

and also includes goats, sheep, mules, horses, hogs, and domesticated poultry, or any other animal used in and for utility or preparation of meat or meat products.

NUISANCE ANIMAL: Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to reasonable enjoyment of life or property.

OFFICIAL HEALTH RECORD: A certificate signed by a licensed veterinarian that shows the age, sex, breed, name, description and health record of ~~dog or cat~~ an animal; as well as the name, address and phone number of the owner or agent of the owner.

OWNER: Any person ~~or any person's agent~~, or entity owning, keeping, harboring or having control of one or more animals. ~~for three consecutive days or more. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days.~~ Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this ordinance.

OWNER'S AGENT: A person or entity capable of acting or empowered to act for and on behalf of the owner.

PERSON: A natural person or persons, firm, association, corporation or any other entity, legal or otherwise, as defined in Chapter 828, Florida Statutes.

PET SHOP: A store, person, partnership, corporation or franchise operation whether operated separately or in connection with another business enterprise that buys, sells, or boards any species of animal for a fee or reimbursement.

PET LICENSE: A document and/or tag issued by the Animal Control Agency indicating that the animal described on the license is owned, kept or boarded by the individual named thereon.

PROBABLE CAUSE: Exists where the facts and circumstances within the Officer's knowledge and of which the Officer has reasonably accurate information sufficient in themselves to lead a reasonable person to believe that an offense has been or is being committed.

PUBLIC PROPERTY: Lands and improvements owned, leased or controlled by the Federal Government, the State, the County, or a municipality, and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, right-of-way, and other similar property.

QUARANTINE: the keeping of an animal in an enclosure approved by the County Health department for a ten day period for rabies observation. The strict indoor confinement, isolation and observation of an animal for symptoms of rabies. Such confinement must prevent the animal from coming into unplanned contact with any other animal or human being for a period of ten (10) days from the date of the bite.

RECOGNIZED NATIONAL, REGIONAL OR LOCAL DOG/CAT CLUB: Any National, Regional or Local Dog or Cat Club which is Chartered, Organized, and has By-laws, Directors and Members.

RESTRAINT: The restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large. Dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length. This may be attached to a pulley or trolley mounted on a cable. No chain or tether shall weigh more than 1/8 of the dog's weight, and shall have swivels on both ends. Each chain, tether or leash shall be attached to a properly fitting collar or

harness. Animals must be restrained in a clear area free from obstructions or vermin-harboring debris.

SANITARY: Clean and free from infectious or deleterious influences.

SECURE ENCLOSURE OR RESTRAINT: the restraint of an animal by fence, building, chain, cage, crate or other enclosure that prevents such an animal from running at large. Confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people.

THREATENING & MENACING BEHAVIOR: Any aggressive behavior toward a human or another animal, whether by barking, growling or charging, without provocation, where such action on the part of the aggressor creates a reasonable apprehension of immediate injury. This does not include an animal that is secured on its own property.

TWENTY-FOUR (24) HOUR NOTICE: An animal control agency form served upon a property in an attempt to notify an owner or owner's agent of an existing violation of an abandoned animal, and that they have 24 hours in which to contract Animal Control Agency.

UNATTENDED ANIMAL: An animal on its own property that is not securely confined and no owner or owner's agent is present, and where that animal is at liberty to come and go freely from its own property.

VETERINARY CARE: Medical treatment by a licensed veterinarian having as its purpose the mitigation of disease, suffering and/or injury.

VICIOUS ANIMAL: Any animal that attacks bites, scratches or attacks in a menacing fashion, or otherwise injures humans, ~~beings~~ domesticated or other animals without provocation, or which because of temperament, conditioning or training has a history of attacking, biting or injuring humans or any domesticated or other animals.

WARNING NOTICE: An animal control agency form used to notify owner or custodian of form served on an owner or owner's agent advising them of an existing violation of this ordinance.

WILD ANIMAL: Any non-domesticated member of the animal kingdom, including those born or raised in captivity that are not dependent upon human beings for survival.

ZOOLOGICAL PARK: Any facility operated by a person, partnership, corporation or government agency other than a pet shop or kennel, displaying or exhibiting one or more species of animal.

SECTION FOUR: Establishment of Town Pound is deleted.

~~———The Town Council may, by adoption of a resolution, establish, create, construct, operate or have operated and maintain an animal shelter, to provide animal control services for the Town of Fort Myers Beach. The shelter shall be of adequate size and design for the safe confinement of animals.~~

SECTION FIVE: Animal Control Enforcement Agency of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~———The Town Council may, by adoption of a resolution, establish The Town of Fort Myers Beach Animal Control Enforcement Agency.~~

The Lee County Animal Control Enforcement Agency, hereafter referred to as the Animal Control Agency, is hereby designated as the enforcement agency for the Town of Fort Myers Beach. It shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated as Animal Control Officers of the Lee County shall have the authority to issue citations and to enforce this Ordinance and the Laws of the State of Florida relating to animals.

SECTION SIX: Prohibitions Against Cruelty to Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~A. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death upon any animal located within the Town of Fort Myers Beach.~~

~~B. It shall be unlawful to procure an animal for such purposes.~~

~~C. It shall be unlawful for any person to inflict pain, suffering, bloodletting or death of an animal for sacrificial purposes, including consumption during a sacrifice ceremony, and for any person to molest or penetrate any animal or use the body parts of an animal for sexual gratification.~~

~~D. No person other than a licensed veterinarian shall crop the ears or tail of any dog.~~

~~E. The slaughter of either domestic or wild animals for food purposes (including, but not limited to all lawful hunting activities) is exempt from the provisions of this Section.~~

- A. No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care; or restrain the animal by any means other than those defined in this Ordinance.
- B. No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.
- C. No person shall neglect, beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse or unnecessarily mutilate or kill any animal, or cause the same to be done.
- D. It shall be unlawful for any person or owner, or group of persons, to abuse, cause bloodletting or death of an animal.
- E. It shall be unlawful for any person to molest or penetrate an animal or use the body parts of an animal for sexual gratification.
- F. It shall be unlawful to procure an animal for the purposes set forth in Sections D. and E.
- G. No person other than a licensed veterinarian, or an owner certified competent by a licensed veterinarian, shall crop the ears or dock the tail of any dog.

1. A person commits an offense if he crops or cuts off or causes or procures to be cropped or cut off, the whole or part of the ear, ears or tail of a dog.
 2. The possession by any person of a dog with an ear or ears cut off or cropped, or tail docked, and with the wound resulting therefrom unhealed, or any such dog found in the charge or custody of any person, or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this Section, unless the cropping or docking has been carried out by a licensed veterinarian or an owner trained by a licensed veterinarian.
- H. It shall be unlawful for any person to leave or deposit any portion or any substance containing poison in any common street, road, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than that person's own yard or enclosure, for the purpose of inflicting injury or killing any animal.
- I. The humane slaughter of either domestic or wild animals for food purposes (including but not limited to all lawful hunting activities) is exempt from the provisions of this section.
- J. Nothing in this Section shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Ritual slaughter and the handling or other preparation of livestock for ritual slaughter shall be carried out in a humane method. For the purpose of this Section, the term "ritual slaughter" is defined in accordance with Chapter 828.23 (7)(b), Florida Statutes (1995).
- K. 1. No owner or agent of an animal shall abandon any animal in any public or private place.
2. If an Animal Control Officer suspects that an animal has been abandoned, but such animal does not appear to be in immediate distress or danger, the Officer may leave notices posted in a conspicuous place informing the owner or agent to contact said Officer within 24 hours. Failure to do so will result in the animal being removed by the Animal Control Officer. The animal will become the property of the Lee County Animal Control Agency if not redeemed within five (5) days. The officer may issue citations if the owner or agent is subsequently located.

SECTION SEVEN: Adoption by Reference; Florida Statutes Relating to Animal Control, Animal Welfare and Animal Cruelty of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

This ordinance hereby adopts by reference, all Laws of the State of Florida relating to Animal Control, Animal Welfare and Animal Cruelty.

SECTION EIGHT: Maliciously Harming or Killing Animals is deleted.

~~It shall be unlawful for any person to maliciously and intentionally harm or kill any animal for no lawful purpose, or to aid, abet or assist in the malicious harming or killing of said animal. Each such animal so harmed or killed shall constitute a separate offense.~~

SECTION EIGHT: Threatening Or Menacing Behavior of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:.

- A. It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any other animal not belonging to said owner or agent, when that animal is not on the property of said owner or agent. This section shall not apply to animals which are securely enclosed, or under the direct control of the owner/agent as defined in this Ordinance. As defined in Florida Statue 767.
- B. It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any person not on the property of said owner or agent.
- C. Upon receipt of a report of any animal acting in this manner, the Animal Control Agency may investigate the incident. After investigation, the Animal Control Agency may order the owner or agent to keep the animal restrained or confined as defined in this Ordinance, and may issue a written warning or a citation and a notice ordering confinement.
- D. Upon an owner's conviction under this section, the subject animal will be considered a vicious animal for the purpose of Section Two, Part 14 as defined in this Ordinance. A record of the order to confine, the written warning, the citation with court results, and any supporting affidavits will be held on file at Animal Control.
- E. An order to confine will be a written notice issued by an Animal Control Officer to a person who owns or harbors a dog that has acted in a threatening or menacing manner. One copy will be left with the owner of the animal and one copy will be kept on file at the Animal Control Agency. Such notice shall include name, address and telephone of owner; sex, color, breed of dog; license and rabies vaccination registration numbers; time, date and nature of incident; signature of owner agreeing to confinement and signature of issuing Officer. The confinement must be completed within 24 hours of the notice being issued. The Officer conducting the investigation will check to ensure that the confinement has been completed.
- F. Failure or refusal to confine any animal in violation of this section may result in the animal being impounded and/or citations being issued.
- G. Exception To Threatening Or Menacing Behavior. An animal that is secured on its own property cannot be found to be threatening.

~~SECTION NINE: Poisoning Animals~~

~~It shall be unlawful for any person to leave or deposit any poisonous or injurious substance in any common street, alley, lane or thoroughfare of any kind, or in any yard or enclosure for the purpose of inflicting injury or killing an animal.~~

SECTION NINE: Vicious Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:

A. The Director of Animal Control or Designee may declare that an animal is a vicious animal, in accordance with applicable Administrative Code.

A. Any animal declared to be a vicious animal shall be confined in a secure enclosure on the premises of the owner or keeper of such animal. No vicious animal shall be allowed off the premises of the owner or keeper unless such animal remains:

1. Inside a secure animal carrier, or

2. Under the physical control of such owner or keeper, and securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length; or

3. Subject to conditions established by the Director of Animal Control.

B. It is a violation of this ordinance for the owner or keeper of a vicious animal to refuse or fail to confine or restrain such animal as required by this Section.

C. No vicious animal impounded pursuant to this ordinance shall be released until:

1. The owner or keeper of such vicious animal presents proof to the Director of Animal Control that the animal will be confined as required by this Section;

2. The owner or keeper executes an affidavit acknowledging that the animal has been declared vicious, agreeing to confine and restrain the animal, and recognizing the County's right to ownership and custody of the animal if it bites or injures a human or another animal after being declared vicious.

D. The owner or keeper of a vicious animal shall report in writing the name and address of the new owner or keeper to the Director of Animal Control prior to transfer of ownership or custody of such animal, and it is a violation of this ordinance not to report the name and address of the new owner.

E. The owner or keeper of a vicious animal shall report in writing or by telephone the death of such animal to the Director of Animal Control immediately, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian or an Animal Control Officer.

- F. 1. The owner or keeper of a vicious animal, whether or not it has been declared vicious, who permits, allows or causes such animal to run, stray or be uncontrolled or at large in or upon public and private property, shall be in violation of this ordinance if such vicious animal bites, attacks or causes injury to any person or domestic animal.
2. It is a violation of this ordinance for any person convicted under this subsection to own, keep, possess, control or be in charge of any animal of the breed which caused the bite, attack or injury for which a conviction was rendered for a period of three (3) years from the date of conviction. No license certificate, license tag or other permit shall be issued for such type of animal to such person within three (3) years of such conviction.
- G. Exception To Classification No animal shall be classified as threatening or vicious if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the owner of the animal, or who was committing a willful trespass upon premises occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or its owner.

SECTION TEN: Fighting or Baiting of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~It shall be unlawful for any person to promote, allow or permit any animal fights or animal baiting within the Town of Fort Myers Beach to include the promoting, staging, advertising or charging of any admission fee to a fight or baiting between two or more animals, to include the betting or wagering of any money or other valuable consideration on the fighting or baiting of animals or to attend the fighting or baiting of animals.~~

to engage in animal fighting or baiting for amusement or gain, including:

- A. Knowingly owning, managing or operating a facility kept or used for fighting or baiting any animal.
- B. Owning, possessing, keeping, training, promoting, purchasing or knowingly selling any animal for animal fighting or baiting.
- C. Promoting, staging, advertising, wagering or charging an admission fee to a fight (baiting) between two or more animals.
- D. Paying for admission to an animal fight/baiting or attending a fight/baiting as a spectator.

SECTION ELEVEN: Sterilization of Dogs and/or Cats Released From Animal Shelter Facility of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

No unclaimed dog or cat shall be released for adoption without being sterilized prior to entering the new home, unless the adopter signs a written agreement guaranteeing that such animal will be sterilized within thirty (30) days for adult animals or by a specified future date for pups and kittens. Lee County Animal Control Officers are authorized to issue citations for failure to sterilize any cat or dog adopted from the animal shelter. Sterilization may be deferred only on the recommendation of a licensed veterinarian. Any person who adopts an unaltered animal shall be required to leave a cash spay/neuter deposit

SECTION TWELVE: Nuisance Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

A. It shall be unlawful for any owner or owner's agent to fail to care for or control the owner's animals, or to allow them to become a nuisance. ~~For purposes of this ordinance, "nuisance" shall mean: to cause, permit or allow an animal to defecate or urinate upon the sidewalk of any public street or on the property of another or in any public park or beach.~~ The owner of every animal shall be responsible for the removal of any excreta deposited by that animal on public walks, recreation areas or private property or any other place where such excreta deposits may create a nuisance injurious to the public health ~~as defined in Florida Statute Chapter 386.~~

B. It shall be unlawful ~~to~~ for:

(1) ~~permit or allow~~ any animal to make unreasonable disturbing noises, including, but not be limited to: barking, howling, whining, screeching or other utterances causing unreasonable annoyance, discomfort or disturbance of the peace or sleep of a reasonable person(s).

(2) ~~allow~~ any animal to roam at-large.

(3) ~~to allow~~ any animal to damage the property of anyone other than its owner.

(4) ~~to allow~~ any animal to roam on school grounds or in the area of school vehicles.

(5) ~~to allow~~ any animal to cause unsanitary conditions in enclosures or surroundings where the animal is kept or confined, as determined by the Animal Control Agency or the Health Department to be unsanitary.

(6) ~~keep any person to keep any~~ animals that are ~~offensive or~~ dangerous to the public health, safety or welfare by virtue of the number ~~and/or~~ types of animals maintained.

(7) ~~allow~~ any animal to disturb or turn over any garbage containers.

C. No person shall offer a bounty for the collection or the elimination of any animal determined to be a nuisance under the provision of this ordinance.

~~D. Any person owning, harboring or in charge of any dog, who allows such dog to defecate on any public beach, right of way, or other public property, or upon any private property without the permission of the owner of the property, shall immediately remove or cause to be removed such feces deposited by such animal and immediately dispose of the same in a sanitary manner. During the time that the dog is on the leash, the person shall carry the necessary equipment to remove such feces in a safe and sanitary manner.~~

SECTION THIRTEEN: Muscovy Ducks Nuisance of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. ~~The Animal Control Agency and the Health Department are~~ is hereby given the authority to declare unsanitary conditions created by Muscovy ducks to be a health nuisance. If a health nuisance is determined to exist, the Animal Control Agency may break the eggs of, ~~may relocate or~~ and humanely euthanize Muscovy ducks.

b. The feeding of Muscovy ducks on public property is hereby prohibited.

SECTION FOURTEEN: Concealment of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

It shall be unlawful for any ~~entity~~ person to confine, hide or conceal any animal to which it does not have legal title; or any animal which has been involved in a bite or scratch or rabies exposure incident for which formal investigation is pending, ~~unless that entity~~ person shall have reported possession of such animal to ~~the Agency~~ Animal Control within twenty four (24) hours after acquiring possession of the animal or within twenty-four (24) hours after making reasonable attempts to locate its owner; or to conceal any other animal that is subject to an investigation by the Animal Control Agency.

SECTION FIFTEEN: Prohibiting Animals From Roaming At-large of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, including but not limited to domestic, livestock, farm, wildlife or fowl raised in captivity, to permit ~~or allow~~ the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, beaches, parks or on the private property of others without the consent of the owner of such property.

b. Any animal found in violation of this Section may be impounded.

c. It shall be lawful under the provision of this Chapter for any property owner or tenant upon property to seize an unrestrained animal, unattended animal, or animal at large on his or her property and turn said animal over to the Animal Control Authority for disposition. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

SECTION SIXTEEN: Failure to Exercise Control Over Vicious Animals

~~It shall be unlawful for the owner of any vicious animal, or guard dog to fail to confine such animal in a building or in a secure enclosure. It shall be unlawful for any person to release a vicious animal, either willfully or by failure to exercise due care. Anyone utilizing the service by hire of a guard dog trained to attack an intruder, must post warning signs openly displayed at the entrance to the property. It shall be unlawful for anyone to utilize the services of a guard dog in any food establishment within Lee County. The owner of any animal shall be responsible for all damages to the person of another, the animal of another or the property of another caused by that animal.~~

SECTION SEVENTEEN: Failure to Confine Female Dogs and/or Cats in Season of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

a. It shall be unlawful for the owner of any female dog or cat in season to fail to keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel to prevent such dog or cat coming into contact with another dog or cat except for intentional breeding purposes. Confinement solely 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.

b. For the purposes of this Section, a fenced yard may not be considered a secure enclosure, and any female in season chained on any unfenced lot, tract, yard or parcel of land may be removed by an Animal Control Officer and confined at the Animal Control facility until the owner of said animal provides alternative confinement, or the animal's condition has ceased to exist. The owner or agent shall be liable for all fees incurred. The Animal Control Agency may issue citations for any violation of this Section.

c. Violations of the above shall be subject to the appropriate penalties as set out in Florida law for violations of ordinances.

SECTION EIGHTEEN: Opposing an Animal Control Officer, Health Official, Damaging Animal Shelter Facility, Releasing Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

It Shall be unlawful for any person to oppose, resist, obstruct or in any manner prevent an Animal Control Officer or health official from performing the officer's duty. It shall also be unlawful to tear down, burn, deface, destroy or otherwise injure any animal shelter or vehicle or to release or remove any animal from the custody of an Animal Control Officer or animal control shelter. ~~Each commission of an assault and/or battery upon an Animal Control Officer or health official shall be deemed a separate offense, punishable in accordance with Florida State Statutes.~~

SECTION NINETEEN: Enforcement of Violations of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Animal Control Officers shall have the authority to impound any animal in violation of this ordinance by using recognized capture techniques and methods. Such methods and techniques may include but not be limited to: leashes, control poles, nets, humane traps and tranquilizer equipment. Animal Control Officers shall have the authority to impound any animal found to be cruelly treated. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination. If after a reasonable effort the seizure of any such unrestrained animal cannot be made, or should the animal be vicious or have an injury or physical condition which causes the animal to suffer, the Animal Control Officer may incapacitate the animal by the most reasonable and humane means then available. Animal Control Officers, on determining that a violation of this Ordinance has occurred, may issue a citation or warning notice to the owner. The citation criteria set forth in Chapter 828.27, Florida Statutes are hereby adopted.

Any person who willfully refuses to sign and accept a citation issued by an Officer is guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

SECTION TWENTY: Redemption and Disposition of Impounded and Unwanted Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. Any animal impounded under the provision of this ordinance and not redeemed by its owner after ~~three (3)~~ five (5) consecutive days shall become the property of the Animal Control Agency. ~~of Lee County Humane Society.~~ The ~~three (3)~~ five (5) day period does not apply to sick, injured, diseased or orphaned sucklings or wild animals regulated by state wildlife agencies. This time period and may be extended or reduced at the discretion of Animal Control to relieve animal suffering. ~~the Agency pending notification of owner.~~ The Agency Animal Control may utilize the services of a veterinarian to treat sick, injured or diseased animals. The owner shall be responsible for all such costs incurred. Feral cats may only be held for three (3) consecutive days.
- ~~B.~~ Any person seeking to redeem or reclaim an animal impounded under the provisions of this ordinance shall pay the impoundment fees, boarding fees, license fees and all other fees resulting from impounding and caring for the animal. Any animal to be released from the pound, must have a prior license or a license must be obtained by the owner. Upon payment of the license fee, the animal will be released to its owner or assignee, who then must have the animal vaccinated for rabies by a licensed veterinarian. The certificate of vaccination must be returned to the Animal Control Enforcement Agency within ~~seven~~ ten (10) days (or a specified date for puppies or kittens) as a prerequisite to issuance of the license.

- C. An owner whose animal has been impounded for a second time within one year may shall be charged a double impoundment fee. The Animal Control Officer is hereby given the authority to issue citations for mandatory appearance in court in subsequent impoundment violations.
- D. When the ownership of an animal is deemed questionable the Animal Control Enforcement Agency shall require proof of ownership. Proof of ownership may include license receipt, veterinary records, affidavits from neighbors, photographs or other reliable documentary evidence.

SECTION TWENTY ONE: Schedule of Fees of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

~~_____ The schedule of fees is set forth as follows:~~

Impoundment fees:	Dog	\$25.00
	Cat	\$10.00
	Misc./Small	\$ 5.00
	Vicious animals	\$50.00
Quarantine fee:	For all animals	\$50.00
Non-impoundment Pickup fee	All	\$10.00
Board per Diem:	Dog	\$ 4.00
	Cat	\$ 3.00
	Livestock/Farm	\$ 5.00
	Misc./Small	\$ 2.00

- A. The Council shall set the fee by Resolution.
- B. The fee is payable to the authorized agency or the authorized veterinarian.
- C. License fees are not required for certified seeing-eye leader dogs, hearing dogs, governmental police dogs, or other certified dogs, trained to assist the physically handicapped; but such animals must be licensed and must have received their rabies vaccination.

SECTION TWENTY TWO: Providing for the Reporting of Persons Bitten or Scratched by Animals and Quarantine of Animals for Rabies Observation of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. Any dog or cat that bites or scratches a person shall be impounded by Animal Control and held in quarantine for a minimum period of ten (10) days from the date of bite or scratch, for rabies observation at the Animal Control shelter or a veterinary clinic in Lee County. Information regarding the animal's description, current rabies vaccination date, owner's name, address and telephone number: the address and telephone number of person bitten or scratched and location of wound shall be reported to the Health Department.

- B. If the dog or cat has a current rabies vaccination and a current license, the Animal Control Officer, with the approval of the Health Department, may allow the animal to be quarantined at home if and only if the animal has not bitten someone previously.
- C. It shall be a violation of this ordinance for any person to refuse to surrender any dog or cat for quarantine.
- D. No person shall allow an animal under home quarantine to violate the Home Quarantine Agreement in any way, or allow said animal to roam at large.
- E. Any dog, ~~or cat~~ or ferret that dies or is humanely euthanized while under quarantine shall be decapitated without mutilation and the head sent to the State Board of Health for pathological examination. All other animals (except dogs or cats ~~or ferrets~~) which bite or scratch a person shall not be quarantined, but shall be impounded until instructed by the Health Department as to its disposition.
- F. It is a violation of this Ordinance for anyone to kill or remove from ~~Lee County, Florida, the Town~~ without the express written consent of the Animal Control Agency Health Department, any of the following:

- 1. any rabid animal:
- 2. any animal suspected of rabies, any other infectious or contagious disease:
- 3. any animal exhibiting unusual behavior:
- 4. any animal which scratches or bites a person, or
- 5. any animal under quarantine.

G. ~~Whoever does so~~ Any person violating the provisions of this section shall, shall upon conviction be guilty of a misdemeanor in of the second degree, for each separate offense, and be subject to the maximum fine as prescribed by State Law. Punished as provided for in Florida Statutes.

SECTION TWENTY THREE: Surrender of Carcass of Rabid Animal of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Any person who, upon demand, does not surrender to the Animal Control Agency or the Department the carcass of any dead animal exposed to rabies to the Lee County Health Department, shall be guilty of a misdemeanor of the second degree, for each separate offense.

SECTION TWENTY FOUR: Licensing and Vaccination Requirements for Dogs, ~~and Cats~~ and Ferrets of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- E. ~~Any Every~~ person who owns, keeps or harbors, within the Town of Fort Myers Beach, any dog, or cat or ferret over the age of four (4) months must have such animal vaccinated against rabies. ~~the animal licensed.~~
- F. Any person who owns, keeps or harbors within The Town any dog, cat or ferret over the age of four (4) months must have such animal licensed. Excluded from this requirement are shelters operated by the Board of County Commissioners, tax exempt animal care facilities and pet shops.
- G. No license shall be issued unless the dog or cat has been vaccinated against rabies and has a certificate of vaccination issued by a licensed veterinarian. Such license ~~and vaccination certificate shall will~~ be valid ~~for one year from date of issue. until~~ the expiration of the Rabies Certificate issued to the same animal, or one year if issued at the same time as the Rabies Certificate. The vaccination certificate shall be valid for one year from the date of issue. The rabies license certificate shall have printed thereon an identification number together with the date, type of vaccine administered, the vaccine manufacturer; the vaccine lot number; the signature or signature stamp of the veterinarian who administered the vaccine, the route of administration; the name of the person issuing the license, the name address and telephone number of the owner, the breed, age, sex, color and markings of the animal, whether the animal has been spayed or neutered and any other features which may help identify the animal. A State approved rabies vaccination certificate which includes the county license number will also be accepted.
- H. Seasonal non-resident owners of animals who reside in ~~Lee County~~ the Town for less than ninety (90) days per year are exempt from the license requirement providing they have a receipt showing a current rabies vaccination no more than one year old.
- I. Any person who owns, keeps or harbors within the Town any dog, cat or ferret over the age of four (4) months must have such animal vaccinated against rabies.
- J. All dogs, cats or ferrets four (4) months of age or older shall be vaccinated by a licensed veterinarian against rabies. Any owner or agent doing self-vaccination for rabies shall be deemed in violation of this Section.
- K. Exception To Vaccination Requirements. No dog, cat or ferret shall require rabies vaccination if a licensed veterinarian has examined the animal and certified that vaccination would endanger its health. A license will be issued by Animal Control upon presentation of an explanatory letter from the veterinarian and payment of the fee.

~~Failure to properly license any dog or cat as outlined above shall be a violation of this Ordinance, and shall constitute a misdemeanor of the second degree.~~

SECTION TWENTY FIVE: Issuance of License Certificates and Tags for Dogs, ~~and Cats and Ferrets~~ of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. A. Upon payment of the fee and submittal of a certificate of rabies vaccination, a license ~~may~~ shall be issued. Each animal so licensed shall be issued a (1) license certificate and a (2) metallic license tag. Such tag shall be impressed with a license identification number which corresponds to the number on the license certificate. No license identification tag issued for one animal shall be considered valid for any other animal. The license certificate and tag may be issued by a licensed veterinarian or the Animal Control Agency upon being shown a vaccination certificate from any licensed veterinarian. ~~the Agency or any licensed practicing veterinarian in Lee County.~~ Certificates shall be executed in triplicate, a copy of the license certificate shall be given to the owner, one to the Animal Control ~~Department~~ Agency and one to the veterinarian. A County license certificate need not be issued if a veterinarian issues a rabies certificate with the County license tag number already shown on it.
- B. The metallic license tag must be attached to the collar or harness of the animal, and must be worn at all times. No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identification of the animal. Cats are not exempt from this provision. During a recognized breed show, the owner of the dog, cat or ferret shall retain the rabies and license tag and/or rabies and license certificates, and shall produce the same if called upon to verify that any cat, dog or ferret in his possession or owned by him has the required license and vaccination. The certificate of vaccination may be produced if the tag has been lost.
- C. Any client presenting to a veterinarian (or other qualified person) for rabies vaccination a dog, cat or ferret without an affixed license tag shall be informed by that veterinarian or qualified person that Lee County law requires that the animal be licensed and wear a license tag.

SECTION TWENTY SIX: License Fee of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

The Town of Fort Myers Beach License fee is hereby established to be four dollars and fifty cents (\$4.50), which may be changed by resolution of the Town Council from time to time. The fee is payable to the authorized agency or the authorized veterinarian. License fees are not required for certified seeing-eye leader dogs, hearing dogs, governmental police dogs, or other certified dogs trained to assist the physically handicapped, but such animals must be licensed and must have received their rabies vaccination.

~~SECTION TWENTY SEVEN: Attachment of the License Tag To The Collar or Harness of Dogs~~

~~—— The metallic license tag must be attached to the collar or harness of all dogs, which tag must be worn at all times. Dogs participating in dog shows, while hunting, while in training, or while participating in sporting events are exempt from this provision. However, the owner shall have in the owner's immediate possession the dog's license tag at all times when the dog is not wearing its collar. No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identity of the animal.~~

~~—— Cats are specifically exempt from the wearing of a collar for the display of the license tag.~~

SECTION TWENTY EIGHT: Issuance of Duplicate Tags and Transfer of Owner of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

A duplicate license may be issued if the original is lost or destroyed. ~~The charge for a duplicate tag is one dollar (\$1.00).~~ If a change of ownership of a dog or cat occurs during the license year, the new owner may have the license transferred upon the payment of a transfer fee of one (\$1.00) dollar. as established by resolution.

~~SECTION TWENTY NINE: Exception to Vaccination Requirements~~

~~—— No dog or cat shall require rabies vaccination if a licensed veterinarian has examined the animal and certified that vaccination would endanger its health. A license will be issued by the Agency upon presentation of an explanatory letter from the veterinarian and payment of the fee.~~

SECTION THIRTY: Inspection of Commercial Animal Establishments of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. The Animal Control Officer Agency shall have the authority to enter and inspect any commercial animal establishment in Lee County during reasonable hours, for the purpose of ascertaining violations of this ordinance or of Florida State Statutes as to cruelty to animals. Bonafide commercial agricultural animal establishments which includes livestock as defined herein, are specifically exempt from the provisions of this sub-paragraph A.
- B. Any owner, manager or staff person upon demand of an Animal Control Officer must produce any and all records pertaining to sale or purchase of animals, veterinary care, rabies certification, health certification, feed receipts, business or exhibitors license or permits, relating to each animal on the premises.
- C. Standards of care required to be maintained at all commercial animal establishment in Lee County must include, but are not limited to:

1. All animals must be given adequate food, water, shelter and veterinary care, as defined in this Ordinance.
2. All cages, kennels, stalls or enclosures shall be cleaned daily. Any bedding provided must be clean.
3. In shops or kennels, room temperature shall be maintained at a level that is healthful for every species of animals kept on the premises. Adequate ventilation shall be maintained.
4. All buildings and sheds used for stabling animals shall be well ventilated and provide adequate protection from the elements.
5. Each animal shall have sufficient space to stand up, lie down, and turn around in a natural position, without touching the sides or top of the cage, stall, kennel or enclosure. Overcrowding will be determined by the inspecting officer.
6. Any animal that appears to be sick must be quarantined away from other animals to avoid the spread of disease and examined by a licensed veterinarian before being placed back with other animals or sold.

D. Each animal found in violation of this Section shall be deemed a separate offense.

~~No person or commercial animal establishment shall display, sell, offer for sale or give away any breed of animal with a recorded propensity toward rabies, for which there is no American Veterinary Medical Association approved rabies vaccination available.~~

SECTION THIRTY ONE: Disposal of Dead Bodies of Owned Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

Upon the death of animal, the owner shall be responsible for disposing of the carcass by burial at least two (2) feet below the surface of the ground. The approved alternative method of disposal ~~of~~ is cremation at a Lee County ~~an~~ approved licensed crematory ~~is authorized~~. Nothing in this section prohibits the disposal of animal carcasses to rendering companies licensed to do business in this State. It is unlawful to dispose of the carcass of any domestic animal by dumping the carcass on public property, road or right-of-way, pursuant to Section 823.041, Florida Statutes.

SECTION THIRTY TWO: Animals In Motor Vehicles of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. The owner or ~~The operator of~~ a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor

vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

- B. It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.
- C. Any Animal Control Officer or law enforcement officer who observes an animal in a motor vehicle in obvious distress may enter the motor vehicle by any means necessary, to remove and impound the animal or take the animal to a veterinarian if necessary. If the owner of said animal cannot be contacted, the Animal Control Officer Or law enforcement officer shall leave in a prominent place in Or up on the vehicle, a written notice as to the reason for removal of the animal. ~~Both~~ the owner of the animal and the owner of the motor vehicle are responsible for the costs incurred as the result of this authorized action.
- D. Any person violating the provisions of this Section shall upon conviction be guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

SECTION THIRTY THREE: Humane Treatment of Animals of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is hereby amended to read as follows:

- A. It is unlawful for any person to dye or artificially color any animal or fowl, including but not limited to rabbits, baby chickens and ducklings, or to bring any dyed or colored animal or fowl into this Town.
- B. It is unlawful for any person to sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under 4 weeks of age, or rabbits under 2 months of age to be used a pets, toys or retail premiums.
- C. Any person violating the provisions of this section shall upon conviction be guilty of a misdemeanor of the second degree. punishable as provided for in Florida Statutes ~~775.082~~ or 775.083.

SECTION THIRTY FOUR: Impoundment Of Animals Found In Distress of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:.

Animal Control Officers shall have the authority to impound any animal found to be cruelly treated or in obvious distress. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination and/or treatment, if necessary. The owner of said animal shall be liable for all costs incurred. Any animal impounded under the provisions of this ordinance and not redeemed by is owner after five (5) consecutive days shall become the property of the Animal Control Agency.

SECTION THIRTY FIVE: Guard Dogs of the ordinance establishing the Town of Fort Myers Beach Animal Control Ordinance is added to read as follows:

- A. Within 90 days of enacting this ordinance, guard dog services shall register all dogs used in their business with the Animal Control Agency. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; and certification of rabies vaccination.
- B. Guard dogs newly acquired by guard dog services shall be vaccinated for rabies and registered with Animal Control no later than seventy-two (72) hours after acquisition.
- C. The fee for registration of a guard dog will be listed in the Administrative Codes.
- D. Each guard dog service will be issued with a registration number which will be obtained from the Animal Control Agency. This number will be posted at the entrance of any property using that guard dog service. At the time of registration, each dog will be Micro chipped and receive an I.D. tag that must be affixed to the dog at all times.
- E. The Animal Control Agency shall maintain a guard dog register which shall contain all data required by this section. Immediately upon transfer of ownership, death, disappearance or annual rabies inoculation of a guard dog, each guard dog service or owner shall notify the Animal Control Agency. Upon receipt of the information, the appropriate entry shall be made in the register. If the guard dog has disappeared, an entry should be made to reflect the locale and reason of such disappearance.
- F. An Animal Control Officer shall have the right to enter and inspect all kennels housing guard dogs and other premises where such dogs are in use for determination of owner registration compliance.
- G. It shall be unlawful for any person, firm or corporation to own or harbor any guard dog in the county that has not been inoculated, registered and tattooed as provided by this Section.
- H. Transportation Of Guard Dogs: The vehicle of every guard dog service transporting any guard dog must be clearly marked, showing that it is transporting a guard dog. A compartment separate from the driver and separating each dog is required, which shall be arranged to ensure maximum ventilation for the animal.
- I. Requirements Of Business Using Guard Dogs:
 - 1. Each business which hires or uses a guard dog service to patrol the premises shall provide adequate fencing or some other confining structure to keep the guard dog within the enclosed area.

2. Each business which hires or uses a guard dog service to patrol the premises during that business' operating hours shall have said dog confined in such a manner so as not to pose a danger to the public.
3. At each appropriate location and entry point, and at 50 foot intervals along the fence perimeter, if applicable, a sign shall be posted including the words "Bad Dog" or "Guard Dog", with a dog picture.
4. All entry points shall be posted with the guard dog service registration number.
5. Dogs, used for guarding businesses must be given a humane existence, including adequate shelter, food, water and exercise.
6. No dog which has been classified as dangerous or vicious by the Animal Control Agency shall be used as a guard dog.
7. Failure to comply with this section is a violation of this ordinance.

SECTION THIRTY SIX. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION THIRTY SEVEN. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council

Member Murphy and seconded by Council Member Cereceda

and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 5th day of June, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Daniel Hughes
Daniel Hughes, Mayor

Approved as to form by:
Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

ORDINANCE 08-08

AN ORDINANCE AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NUMBER 00-08, ALSO KNOWN AS THE TOWN ANIMAL CONTROL ORDINANCE, PROVIDING FOR ENFORCEMENT BY TOWN AND TOWN DESIGNEES; MODIFYING LEASH PROVISIONS FOR DOGS ON THE BEACH AND OTHER PUBLIC AREAS AS DEFINED IN THE ANIMAL CONTROL ORDINANCE; EFFECT OF ORDINANCE; AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council finds that there is a public need affecting life, health, property or the public peace of persons inside the municipal limits of the Town with regard to dogs running loose within the Town municipal limits and the inability of Town employees or Town designees to enforce the provisions of the Town Ordinance 00-08, also known as the Town Animal Control Ordinance; and

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Incorporation of "Whereas" Clauses. The above "Whereas" clauses are hereby incorporated by reference.

SECTION 2. Addition and Deletion of Language. Language being added to the Ordinance shall be shown through underlining. Language being deleted shall be shown in ~~strike-through~~ format.

SECTION 3. Modification of Section Three of Ordinance 00-08. The definitions set forth in Section Three of Ordinance 00-08 are modified as follows:

ANIMAL CONTROL OFFICER: Any person employed by or appointed by Lee County or the Town of Fort Myers Beach who is authorized to investigate, pursuant to law, civil infractions or criminal offenses related to Animal Control or animal cruelty and to issue citations as provided in this ordinance and to file charges based on such investigation. Any reference in this Ordinance to "Lee County Animal Control Officer(s)" shall be automatically modified to include any person employed by or appointed by the Town of Fort Myers Beach for that purpose.

DESIGNEE: Person designated by the Town Manager to fulfill the role of Animal Control Officer in the absence of the regularly employed or appointed Animal Control Officer. ~~the Public Safety or Animal Control Director.~~

RESTRAINT: Restraint for the purpose of this ordinance shall be defined as "The restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large". Dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length; This may be attached to a pulley or trolley mounted on a cable. No chain or tether shall weigh more than 1/8 of the dog's weight and shall have swivels on both ends. Any dog on or in any public area including sidewalks, streets, beaches or other public areas as allowed under the ordinance must be restrained at all times by a hand-held leash which is not more than six (6) feet in length. Any dog on or in any public area that is so restrained must be withdrawn from contact with any person/s approaching or passing so that the dog has no contact opportunity with any person/s. Under no circumstances may a dog be restrained in any public area by any means other than a handheld leash of not more than 6 feet in length, except and unless such dog is a guide dog as defined elsewhere in this Ordinance. Each chain, tether or leash shall be attached to a properly fitting collar or harness. Animals must be restrained in a clear area free from obstruction or vermin-harboring debris.

SECTION 4. Modification of Section Five of Ordinance 00-08. Section Five of Ordinance 00-08 is hereby modified as follows:

The Lee County Animal Control Enforcement Agency, hereafter referred to as the Animal Control Agency, is hereby designated as the an enforcement agency for the Town of Fort Myers Beach; however, the Town shall have the ability to utilize the services of Town staff or third parties, in the Town's sole discretion, to provide enforcement of the provisions of this Ordinance. Any person given the authority to enforce this Ordinance shall be qualified under applicable State and other law and ~~(it) shall employ qualified persons who~~ shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge to duties of the office. Those persons designated as Animal Control Officers ~~of the Lee County~~ shall have the authority to issue citations and to enforce this Ordinance and the Laws of the State of Florida relating to animals.

SECTION 5. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 6. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinances of the Town of Fort Myers Beach, except as expressly provided.

SECTION 7. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Babcock and seconded by Council Member List and, upon being put to a vote, the result was as follows:

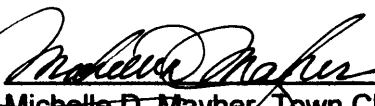
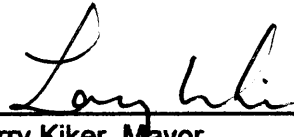
Larry Kiker, Mayor aye
Herb Acken, Vice Mayor nay
Bob Raymond aye

Tom Babcock aye
Jo List aye

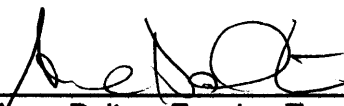
DULY PASSED AND ENACTED this 14th day of July, 2008

ATTEST:

TOWN OF FORT MYERS BEACH

By:  By: 
Michelle D. Mayher, Town Clerk Larry Kiker, Mayor

Approved as to legal form and sufficiency by:


Anne Dalton, Esquire, Town Attorney

TOWN OF FORT MYERS BEACH
ORDINANCE 10-03

AN ORDINANCE REGULATING THE CONTROL OF ANIMALS WITHIN THE TOWN OF FORT MYERS BEACH, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH ANIMAL CONTROL ORDINANCE; PROVIDING FINDINGS, PROVIDING FOR PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT AND PENALTY; REPEALING ALL PRIOR TOWN ORDINANCES REGARDING ANIMAL CONTROL; PROVIDING FOR SEVERABILITY; EFFECT OF ORDINANCE; AND EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council finds that there is a public need affecting life, health, property or the public peace of persons with regard to establishing procedures for control of animals within the Town municipal limits and setting forth all regulations regarding such animal control in one comprehensive ordinance.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section One. Authority and Title. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida; Chapters 166, 379, 705, 767, 823, and 828, Florida Statutes; and other applicable provisions of law. It shall be hereafter known and cited as “The Town of Fort Myers Beach Animal Control Ordinance”.

Section Two. Incorporation of Whereas Clauses. The above “Whereas” clauses are hereby incorporated by reference.

Section Three. Repeal of Prior Ordinances. The following Ordinances are hereby repealed in their entirety, effective upon passage of this Ordinance: Ordinance 08-08, 00-08, 99-05, and 96-08.

Section Four. Effect on Prior Offenses. No provision of this Ordinance shall be construed to affect any obligation entered into, or any offense committed, prior to its effective date.

Section Five. Purpose and Intent. The purpose of this Ordinance is to adopt provisions relating to animal control that conform to the requirements set forth in Florida statute where required, that do not prevent or displace the enforcement of Florida statutes related to animal control and cruelty, and that are otherwise congruent with Town policies and procedures. Its intent is to protect and preserve the health, safety, and welfare of humans and domestic animals within the Town of Fort Myers Beach.

Section Six. Definitions.

The following definitions are established for purposes of and apply to this Ordinance:

Abandon means to give up possession of, to neglect, to forsake an animal entirely or to refuse to provide or perform the legal obligations for care and support of an animal by its owner or owner's agent.

Adequate food means uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition.

Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, and in sufficient amounts to maintain good health. Such water will be provided in a secure manner so that the container cannot be overturned.

Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and protection from exposure to inclement weather.

Adequate health care means the provision to each animal of all immunizations and preventative care required to maintain good health; and the provision to each sick, diseased or injured animal of veterinary care or humane death.

Animal means domesticated animals including dogs, cats and ferrets.

Animal roaming at large means any animal not under the restraint, confinement or direct control of the owner or his agent, as defined further herein.

Animal care facility means any person, group or business that provides for the care, sustenance, housing, maintenance or other necessary care of an animal, usually but not necessarily for a fee. Including, but are not limited to, veterinary facilities, boarding facilities, groomers, animal sitters/foster care, rescues, shelters and pet stores.

Animal control officer means any person employed or appointed by the Town of Fort Myers Beach and who is authorized to investigate, pursuant to law, civil infractions or criminal offenses relating to animal control or animal cruelty, and to issue citations, or utilize other enforcement mechanisms as provided in this Ordinance, and to file charges

based on such investigation. This definition is in addition to any provisions of state law regarding animal control officers.

Auction means any facility or place where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this Ordinance. This definition does not apply to individual sale of animals by owners.

Baiting means to attack with violence, to provoke or to harass an animal with one (1) or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. "Baiting" also means the use of live animals in the training of racing greyhounds or dogs used in "Hog Dog Rodeos", or any other performing animal exhibition.

Board means the Board of County Commissioners of Lee County, Florida.

Caregiver means any person who provides food, water or shelter to or otherwise cares for any animal, feral or domesticated, over a designated period of ten (10) days or longer that the person, whether of their own volition or by request of the owner of said animal provides care for the animal.

Citation means a written notice issued to a person by an animal control officer stating that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly-enacted ordinance or of the applicable laws of the State of Florida and that the county court will hear the charge.

Commercial animal establishment means any pet shop, animal grooming shop, flea market, department store, guard dog training facility, riding school, any type of kennel, cattery; or any other premises or property where animals are kept as part or whole of a business concern. Bona fide commercial agricultural animal establishments are excluded from this definition, with the exception of cruelty to animal investigations as authorized elsewhere in this Ordinance.

Cruelty to animals is defined in Chapter 828, Florida Statutes, as amended from time to time.

Dangerous animal means any animal that according to the records of the appropriate authority 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 fighting or is an animal trained for fighting; or 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 (1) or more persons and dutifully investigated by the appropriate authority.

Designee means the person designated to fulfill a specific role hereunder at the direction of the Town Manager.

Direct control shall mean immediate and continuous physical control of an animal at all times; such as by means of a fence, leash not to exceed six (6) feet in length, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property). A bona fide service animal shall be considered to be under direct control when it is being employed by an individual with a disability or when it is being trained by a trainer of service animals.

Domestic animal means any animal kept for enjoyment and/or companionship rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent upon people for food, shelter and survival.

Domestic animal services means the Town of Fort Myers Beach, or any governmental or non-governmental organization to which authority to enforce and administer this Ordinance is delegated by the Town through interlocal agreement, contract, or other lawful mean and/or any entity which is otherwise charged by state statute with enforcement of laws related to animals.

Euthanasia means the humane and painless putting to death of an animal that is hopelessly sick, injured or ultimately unclaimed. In the case of dogs and cats, by injection of sodium pentobarbital as defined in Chapter 828, Florida Statute, as amended, from time to time.

Exotic species means any animal whose natural habitat is outside the continental United States, excluding nonvenomous reptiles and fish.

Feral animal means any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.

Grooming shop means any commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard dog means any dog used primarily for the purposes of defending, patrolling, or protecting property or life.

Guard dog registration means the process of presenting a guard dog to domestic animal services for purposes of documenting pertinent data of the dog, which shall include name, address, and telephone number of the guard dog service, the service's manager, the dog's owner (if other than the service), and/or the handler, the dog's breed, sex color, microchip registration number (if applicable), certification of rabies vaccination, any other distinguishing physical characteristics of the animal, and any "stop attack/release" commands.

Guard dog service means any person, firm, or corporation which trains, sells, rents, leases, or loans guard dogs for the purpose of defending, patrolling, or protecting properties or persons.

Health department means the Lee County Health Department.

Humane capture methods means the use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

Humane manner means a manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species and breed; including necessary veterinary care.

Humane trap means a device used to capture animals, which does not cause injury to the animal upon capture or confinement.

Implied owner means any person who is harboring an animal without ownership being openly or directly expressed.

Impoundment means confining of any animal by domestic animal services in a manner consistent with professionally recognized standards of humane treatment.

Individual with a disability is defined in F.S. § 413.08(1), as amended from time to time.

Kennel or cattery means any premises where animals are kept for profit rather than enjoyment, by boarding, grooming, buying, training, selling, letting-for-hire or offering of stud services. Animal hospitals maintained by a Florida licensed veterinarians, shelters operated by the Board of County Commissioners or tax exempt animal care facility shall not be considered commercial kennels or catteries.

Livestock means as defined in F.S. § 828.23, as may be amended, all animals of the bovine, equine, or swine class and also includes goats, sheep, mules, horses, hogs, and domesticated poultry, or any other animal used in and for utility or preparation of meat or meat products.

Nuisance animal means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to reasonable enjoyment of life or property.

Official health record means a certificate signed by a licensed veterinarian that shows the age, sex, breed, name, description and health record of an animal; as well as the name, address and phone number of the owner or agent of the owner.

Owner means any person or entity owning, keeping, harboring or having control of one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days. Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this Ordinance.

Owner's agent means a person or entity capable of acting or empowered to act for and on behalf of the owner.

Person means a natural person or persons, firm, association, corporation or any other entity, legal or otherwise, as defined in Chapter 828, Florida Statutes, as may be amended.

Pet shop means a store, person, partnership, corporation or franchise operation whether operated separately or in connection with another business enterprise that buys, sells, or boards any species of animal for a fee or reimbursement.

Pet license means a document and/or tag issued by domestic animal services indicating that the animal described on the license is owned, kept or boarded by the individual named thereon.

Provider means any person or entity that provides for the sustenance, medical care, housing, or other essential items/care to any animal. Florida licensed veterinarians are exempt from this definition while providing care for an animal owned by a client, customer, or shelter.

Probable cause exists where the facts and circumstances within the officer's knowledge and of which the officer has reasonably accurate information are sufficient to lead a reasonable person to believe that an offense has been or is being committed.

Public nuisance, for the purposes of this Ordinance, means any animal that unreasonably annoys the community, injures the health of citizens in general or other animals, or substantially interferes with the rights of other persons to the quiet enjoyment of life or property.

Public property means lands and improvements owned, leased or controlled by the Federal Government, the state, the county, or a municipality, and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property.

Quarantine means the strict indoor confinement, isolation and observation of an animal for symptoms of rabies. Such confinement must prevent the animal from coming into unplanned contact with any other animal or human being for a period of ten (10) days from the date of the bite.

Recognized national, regional or local dog/cat club means any national, regional or local dog or cat club which is chartered, organized, and has by-laws, directors and members.

Restraint means the restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large. Other than a dog restrained on a hand-held leash, dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length. This may be attached to a pulley or trolley mounted on a cable. No chain or tether shall weigh more than one-eighth (1/8) of the dog's weight, and shall have swivels on both ends. Each chain, tether or leash shall be attached to a properly fitting collar or harness. Animals must be restrained in a clear area free from obstructions or vermin-harboring debris.

Sanitary means clean and free from infectious or deleterious influences.

Secure enclosure means confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people.

Secure enclosure of a dangerous animal means while on the owner's or keeper's property, a dangerous animal is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall include a concrete base with a minimum of eight (8) inches of block above concrete base with secure fencing material that is tied into the base and secured behind the block and the enclosure shall further include a full, secure top and locking access door that must remain locked at all times while the dangerous animal is inside. The pen or structure shall also provide adequate ventilation and protection from the elements.

Service animal means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet. An animal control officer may ask if an animal is a service animal or what tasks the animal has been trained to perform in order to determine the difference between a service animal and a pet.

Threatening and menacing behavior means any aggressive behavior toward a human or another animal, whether by barking, growling or charging, without provocation, where such action on the part of the aggressor creates a reasonable apprehension of immediate injury. This does not include an animal that is secured on its own property.

Town. All references to the “the Town” or “Town” herein shall mean “the Town of Fort Myers Beach, Florida”.

Twenty-four (24) hour notice means a domestic animal services form left upon a property in an attempt to notify an owner or owner's agent of an existing violation or an abandoned animal, and that they have twenty-four (24) hours in which to contact domestic animal services.

Unattended animal means an animal that is not securely confined and no owner or owner's agent is present, and where that animal is at liberty to come and go freely from the property.

Unprovoked behavior of an animal means an animal that has been bitten or chased in a menacing fashion or attacked a person or another animal who has been conducting themselves peacefully and lawfully.

Veterinarian means a person who is licensed to engage in the practice of veterinary medicine as provided for in Chapter 474, Florida Statutes, as may be amended.

Veterinary care means medical treatment by a licensed veterinarian having as its purpose the mitigation of disease, suffering and/or injury.

Veterinary hospital means any place or facility owned or operated by a licensed veterinarian and used for the practice of veterinary medicine in the diagnosis, treatment, and care of diseases and injuries to animals, or used for the boarding of animals during such diagnosis, treatment or care, or used for the temporary boarding of animals belonging to the veterinarian's clients.

Warning notice means an animal control agency form served on an owner or owner's agent advising them of an existing violation of this Ordinance.

Wild animal means any nondomesticated member of the animal kingdom, including those born or raised in captivity that are not dependent upon human beings for survival.

Zoonoses or zoonotic diseases means those diseases transmittable to humans and animals by other animals including parasitic, bacterial, fungal and viral diseases.

Section Seven. Animal shelter.

Domestic animal services shall provide for the availability of an animal shelter of adequate size and design for the safe confinement of animals through interlocal agreement, contract, or other lawful means.

Section Eight. Domestic animal control enforcement agency.

Domestic animal services shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated by the Town as animal control officers, are duly appointed as code enforcement officers in accordance with Florida Statute § 162.21(2), as may be amended, and by any applicable Town

regulations. Such persons shall have the authority to issue citations and to enforce this Ordinance and, where applicable, the laws of the State of Florida relating to animals.

Section Nine. Adoption by reference: Florida Statutes relating to animal control, animal welfare and animal cruelty.

The Town hereby adopts by reference, as a part of this Ordinance, all laws of the State of Florida relating to animal control, animal welfare and animal cruelty.

Section Ten. Cruelty to animals.

(a) No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care; or restrain the animal by any means other than those defined in this Ordinance.

(b) No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.

(c) No animal in the care, custody, or control of a person shall be neglected, beaten, cruelly treated, tormented, overworked, overloaded, abused, mutilated or killed.

(d) It shall be unlawful for any person or owner, or group of persons, to abuse, cause bloodletting or death of an animal.

(e) It shall be unlawful for any person to molest or penetrate an animal or use the body parts of an animal for sexual gratification.

(f) It shall be unlawful to procure an animal for the purposes set forth in subsections (d) and (e) of this section.

(g) No person other than a licensed veterinarian, or an owner certified competent by a licensed veterinarian, shall crop the ears or dock the tail of any dog.

(1) A person commits an offense if he crops or cuts off or causes or procures to be cropped or cut off, the whole or part of the ear, ears or tail of a dog, except as provided herein.

(2) The possession by any person of a dog with an ear or ears cut off or cropped, or tail docked, and with the wound resulting therefrom unhealed, or any such dog being found in the charge or custody of any person, or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this section, unless the cropping or docking has been carried out by a licensed veterinarian or an owner trained by a licensed veterinarian.

(h) It shall be unlawful for any person to leave or deposit any poison or any substance containing poison in any common street, road, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than that person's own yard or enclosure, for the purpose of inflicting injury or killing any animal.

(i) The humane slaughter of either domestic or wild animals for food purposes (including but not limited to all lawful hunting activities) is exempt from the provisions of this section.

(j) Nothing in this section shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Slaughter and the handling or other preparation of livestock for ritual slaughter shall be carried out in a humane method. For the purpose of this section, the term "slaughter" is defined in accordance with F.S. 828.23(3), as may be amended.

(k) Abandonment of Animals.

(1) No owner or agent of an animal shall abandon any animal in any public or private place.

(2) If an animal control officer suspects that an animal has been abandoned, but such animal does not appear to be in immediate distress or danger, the officer may leave notices posted in a conspicuous place informing the owner or agent to contact said officer within twenty-four (24) hours. Failure to do so will result in the animal being removed by the animal control officer. The animal will become the property of domestic animal services if not redeemed within three (3) days. The officer may issue citations if the owner or agent is subsequently located.

(3) It shall be unlawful for a person to willfully and knowingly provide false or misleading information to domestic animal services regarding animal ownership, licensing, rabies vaccination, medical treatment and condition and/or other matters pertaining to the enforcement of state law or this Ordinance.

(l) Tethering. No person shall under any circumstances tether or otherwise confine any animal in a manner that is injurious to the animal's health, safety and well-being. Proper and humane tethering includes, but is not limited to the following:

(1) Collars used to attach an animal should be comfortable and properly fitted as to not choke the animal. The use of choke chains is prohibited.

(2) The tether shall not extend over an object or edge in such a manner that could result in strangulation of or injury to the animal. The length of the tether must be a minimum of ten (10) feet, or at least three (3) times the length of the animal measured from the animal's nose to the base of its tail, whichever is greater, unless the tether is being used to secure the animal to the bed of an open vehicle or pick-up truck. Restraints should allow the animal to move about and lie down comfortably.

(3) Tethering of an animal is prohibited during natural disasters such as floods, fires, tornados or hurricanes.

Section Eleven. Impoundment of animals found in distress.

Animal control officers shall have the authority to impound any animal found to be cruelly treated or in obvious distress. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination and/or treatment, if necessary. The owner of said animal shall be liable for all costs incurred. Any animal impounded under the provisions of this Ordinance and not redeemed by its owner after three (3) consecutive days shall become the property of domestic animal services.

Section Twelve. Animal fighting or baiting.

It shall be unlawful for any person to promote, allow or permit any animal to engage in animal fighting or baiting for amusement or gain, including:

- (1) Knowingly owning, managing or operating a facility kept or used for fighting or baiting any animal.
- (2) Owning, possessing, keeping, training, promoting, purchasing or knowingly selling any animal for animal fighting or baiting.
- (3) Promoting, staging, advertising, wagering or charging an admission fee to fighting or baiting between two (2) or more animals.
- (4) Paying for admission to an animal fight/baiting or attending fighting or baiting as a spectator.

Section Thirteen. Sterilization of dogs and cats released from animal shelter facility.

- (a) No unclaimed dog or cat shall be released for adoption without being sterilized prior to entering the new home. Animal control officers are authorized to issue citations for failure to sterilize any cat or dog adopted from the animal shelter.
- (b) Sterilization may be deferred only on the recommendation of a licensed veterinarian.
- (c) Any person who adopts an unaltered animal shall be required to leave a spay/neuter deposit, which will be fully refunded upon proof that the sterilization has been accomplished.
- (d) Any unsterilized animal impounded for a second or subsequent redemption that is reclaimed by the owner shall be sterilized at the expense of the owner prior to the animal being released from domestic animal services. Sterilization may be deferred only on the recommendation of a licensed veterinarian.

Section Fourteen. Nuisance animals.

Any owner of an animal who fails to care for and control that animal and prevent it from becoming a nuisance commits a violation of this Ordinance.

(1) The owner of each animal shall be responsible for the removal of any excreta deposited by the animal on public walks, recreation areas, private property, or any other place where such excreta deposits may create a nuisance injurious to the public health. Any person exercising control over an animal who fails to remove excreta deposited by that animal in a public area or on any other person's private property commits a violation of this Ordinance.

- (2) An owner of an animal commits a violation of this Ordinance if that owner:
- a. Causes or allows that animal to make unreasonable disturbing noises, including, but not limited to: barking, howling, whining, screeching or other utterances causing annoyance, discomfort or disturbance of the peace or sleep of a reasonable person(s).
 - b. Causes or allows that animal to damage the property of anyone other than its owner.
 - c. Causes or allows that animal to roam on school grounds or in the area of school transportation vehicles.

d. Causes or allows that animal to cause unsanitary conditions in enclosures or surroundings where the animal is kept or confined, as determined by domestic animal services to be unsanitary.

e. Keeps any animals that are dangerous to the public health, safety or welfare by virtue of the number or types of animals maintained.

f. Causes or allows that animal to disturb or turn over any garbage containers.

(3) No person shall offer a bounty for the collection or the elimination of any animal determined to be a nuisance under the provisions of this Ordinance.

Section Fifteen. Muscovy ducks as nuisances.

(a) Domestic animal services is hereby given the authority to declare Muscovy ducks to be a public nuisance. If a public nuisance is determined to exist, Domestic animal services may break the eggs and humanely euthanize the ducks, or authorize other qualified individuals to do the same. Where a nuisance is created by a Muscovy duck or ducks, and the person responsible for the ducks can be determined, the person may be issued a citation for contributing to the creation of a public nuisance.

(b) The possession of or feeding of Muscovy ducks on public property and private property zoned residential is hereby prohibited.

Section Sixteen. Surrender of stray animals to domestic animal control enforcement agency.

Stray animals shall be released by the finder to domestic animal services within twenty-four (24) hours of being found to provide owners the opportunity to reclaim their animal during the stray holding period. A finder may adopt the found animal if unclaimed by the owner at the expiration of the stray holding period with a completed and approved adoption application through domestic animal services.

Section Seventeen. Concealment of animals.

It shall be unlawful for any person to confine, hide or conceal any animal to which the person does not have legal title; or any animal which has been involved in a bite or scratch or rabies exposure incident for which formal investigation is pending, or to conceal any other animal that is subject to an investigation by domestic animal services.

Section Eighteen. Prohibiting animals from running at large.

(a) It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, to permit the animal to stray, run, go or roam at large in or upon any public street, sidewalk, school grounds, in the area of school vehicles, beaches, or parks, or on the private property of others without the consent of the owner of such private property.

(b) Any animal found in violation of this section may be impounded.

(c) Any property owner or tenant upon property may seize an unrestrained animal, unattended animal, or animal at large on his or her property and shall surrender said animal within twenty-four (24) hours to domestic animal services for disposition. Any person seizing an unrestrained animal, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

Section Nineteen. Threatening or menacing behavior.

- (a) It shall be unlawful for the owner of any animal, or that owner's agent, to allow that animal to act in a threatening or menacing manner toward any other animal not belonging to said owner or agent, when that animal is not on the property of said owner or agent. This section shall not apply to animals which are securely enclosed, or under the direct control of the owner/agent as defined in this Ordinance.
- (b) It shall be unlawful for the owner of any animal, or that owner's agent, to allow that animal to act in a threatening or menacing manner toward any person not on the property of said owner or agent.
- (c) Upon receipt of a report of any animal acting in this manner, domestic animal services may investigate the incident. After investigation, domestic animal services may order the owner or agent to keep the animal restrained or confined as defined in this Ordinance, and may issue a written warning or a citation and a notice ordering confinement.
- (d) Upon an owner's conviction under this section, the subject animal will be considered a dangerous animal for the purpose of section twenty of this Ordinance. A record of the order to confine, the written warning, the citation, and any supporting affidavits will be held on file at domestic animal services.
- (e) An order to confine will be a written notice issued by an animal control officer to a person who owns or harbors a dog that has acted in a threatening or menacing manner. One (1) copy will be left with the owner of the animal and one (1) copy will be kept on file at domestic animal services. Such notice shall include name, address and telephone number of owner; sex, color, breed of dog; license and rabies vaccination registration numbers; time, date and nature of incident; signature of owner agreeing to confinement and signature of issuing officer. The confinement must be completed within twenty-four (24) hours of the notice being issued. The animal control officer conducting the investigation will check to ensure that the confinement has been completed.
- (f) Failure or refusal to confine any animal in violation of this section may result in the animal being impounded and/or citations being issued.
- (g) Exception to threatening or menacing behavior. An animal that is secured on its owner's property cannot be found to be threatening or menacing.

Section Twenty. Dangerous animals.

- (a) The director of domestic animal services or designee may declare that an animal is a dangerous animal, in accordance with applicable administrative code that may be adopted by the Town Council. If no such administrative code has been adopted, domestic animal services shall follow the procedures provided by the applicable Lee County administrative code.
- (b) Any animal declared to be a dangerous animal shall be confined in a secure enclosure on the premises of the owner or keeper of such animal. No dangerous animal shall be allowed off the premises of the owner or keeper unless such animal remains:
- (1) Inside a secure marked carrier identifying the animal as dangerous, or
 - (2) Under the physical control of such owner or keeper who is competent and over the age of eighteen (18) years, securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length

attached to an approved harness which identifies the animal, provided by domestic animal services at owner's expense. The muzzle must be made in a manner that will not cause injury to the animal or interfere with its vision or respiration; or

(3) Subject to conditions established by the director of domestic animal services.

(c) It is a violation of this Ordinance for the owner or keeper of a dangerous animal to refuse or fail to confine or restrain such animal as required by this section.

(d) No dangerous animal impounded pursuant to this Ordinance shall be released until:

(1) The owner or keeper of such dangerous animal presents proof to the director of domestic animal services that the animal will be confined as required by this section;

(2) The owner or keeper executes an affidavit acknowledging that the animal has been declared dangerous, agreeing to confine and restrain the animal, and recognizing that domestic animal services will assume ownership and custody of the animal if it bites or injures a human or another animal after being declared dangerous.

(3) Provides proof that the animal has been electronically implanted, sterilized, vaccinated for rabies and has made payment of a one-time dangerous dog registration fee of one thousand five hundred dollars (\$1,500.00) with the acknowledgement of an additional annual registration fee of five hundred dollars (\$500.00) per year. This annual registration fee is in addition to the pet licensing fee required in section twenty-seven of this Ordinance.

(4) Posts warning signs with attached number identifying the dangerous animal, provided by domestic animal services at owner's expense, on owner or keeper's premise stating "Dangerous Animal" on the property at all entry points to the property.

(5) If applicable, a notarized statement must be submitted to the director of domestic animal services by the landlord of said property that will house a dangerous animal including adherence to all posting regulations.

(e) If a dangerous animal is sold or given away, the owner or keeper of a dangerous animal shall report, in writing, the names, addresses and telephone numbers of the new owner or keeper to the director of domestic animal services prior to the transfer of ownership or custody of such animal. It is a violation of this Ordinance not to report the name and address of the new owner. The owner or keeper shall update all relevant information with the national registry applicable to the microchip and shall provide domestic animal services with confirmation that the microchip information has been updated. The new responsible party shall comply with all of the requirements of this section even if the animal is later moved from this county to another county within the State of Florida. If an animal that has been designated by another jurisdiction as dangerous and is housed within Lee County, the owner or keeper shall immediately register the animal with domestic animal services. If an animal is declared dangerous by another municipality, the animal will automatically be declared a dangerous animal in Lee County, requiring the owner or keeper to comply with section nineteen of this Ordinance.

(f) The owner or keeper of a dangerous animal shall report in writing or by telephone the death of such animal to the director of domestic animal services immediately, and it is a violation of this Ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian or an animal control officer.

(g) The owner or keeper of a dangerous animal, whether or not it has been declared dangerous, who permits, allows or causes such animal to run, stray or be uncontrolled or

at large in or upon public or private property, shall be in violation of this Ordinance if such dangerous animal bites, attacks or causes injury to any person or domestic animal.

(h) It is a violation of this Ordinance for any person convicted under this subsection to own, keep, possess, control or be in charge of any animal of the breed which caused the bite, attack or injury for which a conviction was rendered for a period of three (3) years from the date of conviction. No license certificate, license tag or other permit shall be issued for such type of animal to such person within three (3) years of such conviction.

(i) Domestic animal services shall have the authority to make inspections as necessary to ensure that the owner or keeper of a dangerous animal is in compliance with this Ordinance. Animals classified as dangerous under this Ordinance:

(1) Shall not be used as a guard dog.

(2) Shall not be used for the purposes of hunting.

(j) Upon declaration of euthanasia of a dangerous animal provided by domestic animal services, domestic animal services shall provide the owner of a classified dangerous animal written notice containing all costs and fees incurred by the department in the confiscation, maintenance, quarantine and euthanasia of the animal with a deadline not less than thirty (30) days from receipt of the notice of payment of the costs and fees.

(k) Exception to classification under section twenty. No animal shall be classified as threatening or dangerous if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the owner of the animal, or who was committing a willful trespass upon premises occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or its owner.

Section Twenty-One. Failure to confine female dogs and cats in season.

(a) It shall be unlawful for the owner or agent of any female dog or cat in season to fail to keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel to prevent such dog or cat coming into contact with another dog or cat except for intentional breeding purposes. Confinement solely 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.

(b) For the purposes of this section, a fenced yard may not be considered a secure enclosure, and any female in season chained on any unfenced lot, tract, yard or parcel of land may be removed by an animal control officer and confined at domestic animal services until the owner of said animal provides alternative confinement, or the animal's condition has ceased to exist. The owner or agent shall be liable for all fees incurred. Domestic animal services may issue citations for any violation of this section.

Section Twenty-Two. Opposing an animal control officer.

(a) It shall be unlawful for any person to oppose, resist, obstruct, hinder or in any manner prevent an animal control officer from performing lawful duties.

(b) It shall be unlawful to tear down, burn, deface, destroy or otherwise damage any animal shelter, equipment, vehicle, or to release or remove any animal from the custody of an animal control officer, domestic animal services shelter or trap owned by domestic animal services.

Section Twenty-Three. Enforcement of violations.

- (a) Animal control officers shall have the authority to impound any animal in violation of this Ordinance by using recognized capture techniques and methods. Such methods and techniques may include but are not limited to: leashes, control poles, nets, humane traps and recognized tranquilizer equipment.
- (b) If after a reasonable effort the seizure of any such unrestrained animal cannot be made, or should the animal be dangerous or have an injury or physical condition which causes the animal to suffer, the animal control officer may incapacitate the animal by the most reasonable and humane means then available.
- (c) An animal control officer who has probable cause to believe that a person has committed a civil infraction in violation of this Ordinance may issue a citation. The citation criteria as set forth in F.S. § 828.27, as may be amended, are hereby adopted, and will be utilized for issuance of citations and warning notices.
- (d) An animal control officer who in the course of duty observes conduct that may be contrary to state law, including but not limited to a person's willful refusal to sign and accept a citation issued pursuant to this Ordinance, shall report such conduct to a law enforcement officer.
- (e) Any duly sworn law enforcement officer in Lee County may enforce the provisions of this Ordinance in the Town of Fort Myers Beach.

Section Twenty-Four. Vaccination requirements for dogs, cats and ferrets.

- (a) Any person who owns, keeps, possesses, provides for or harbors within the Town of Fort Myers Beach any dog, cat, or ferret four (4) months of age or older must have such animal vaccinated against rabies. Any person owning, keeping, possessing or harboring any dog, cat, or ferret without proof of a current valid vaccination shall be deemed to be violating this provision.
- (b) All dogs, cats, and ferrets four (4) months of age or older must be vaccinated against rabies by a licensed veterinarian with a vaccine that is licensed for use in such species and in the following manner:
 - (1) The animal must be revaccinated twelve (12) months after the initial vaccination.
 - (2) For subsequent vaccinations the interval between vaccinations shall conform to the vaccine manufacturer's directions.
 - (3) Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.
 - (4) Any owner or agent doing a self-vaccination for rabies shall be deemed in violation of this section.
 - (5) A dog, cat, or ferret is only exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that at the time vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits. A county license must be purchased regardless of the exemption from the rabies vaccination.
- (c) A licensed veterinarian shall provide the owner of the animal a rabies vaccination certificate at the time of the vaccination. Similarly, the licensed veterinarian shall provide animal services a copy of the actual rabies certificate within thirty (30) days of the

vaccination or immediately upon demand for investigations, public safety or other reasons of enforcement.

(1) Each veterinarian shall use the "Rabies Vaccination Certificate," of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government.

(2) Failure to provide the rabies vaccination certificate as required by this section shall be deemed a separate and distinct violation for each certificate not issued or provided to domestic animal services.

Section Twenty-Five. License requirements for dogs, cats and ferrets.

(a) Any veterinarian vaccinating dogs, cats or ferrets in the Town of Fort Myers Beach shall only issue the Lee County vaccination/license tag along with the proper rabies certificate requirements described above as proof of vaccination. No veterinarian, clinic, shelter or provider shall issue any tag or object that may be thought by a reasonable person to be the equivalent of the required county rabies/license tag. Each individual tag or object issued shall be deemed a violation.

(b) Any person who owns, keeps, possesses, provides for or harbors within the Town of Fort Myers Beach any dog, cat or ferret four (4) months of age or older must have such animal licensed.

(1) Excluded from this license requirement are shelters operated by or under contract with Lee County or the Town of Fort Myers Beach. Not exempt from this requirement are rescues, private animal facilities, greyhound or other sporting dog facilities, breeders, and other animal care facilities.

(2) The county license must be attached to a collar or harness on the animal at all times. Cats and ferrets that have a microchip registered to the owner with current name, address, and phone number shall be exempt from the requirement that the license tag must be attached to the animal.

(c) No license shall be issued unless the dog, cat, or ferret has been vaccinated against rabies. Owners of animals that are exempt from rabies vaccination due to a medical condition and who possess a valid medical certificate of exemption issued by a licensed veterinarian are required to purchase a one-year county license regardless of the exemption from a licensed veterinarian. One-year licenses shall only be issued with a one-year rabies vaccination and three-year licenses shall only be issued with a three-year rabies vaccination.

(d) Owners of animals who visit or reside in the Town of Fort Myers Beach for less than thirty (30) days per year are exempt from the license requirement provided that they have proof of a valid current rabies vaccination.

(e) No license tag issued for one (1) animal shall be considered valid for any other animal. Any person that owns, keeps, harbors, provides for or possesses an animal wearing the license tag of another animal shall be in violation of this Ordinance even if the animal has a valid license of its own.

(f) The license tag may be issued by a licensed veterinarian or other entity approved by the director of domestic animal services to issue county license tags upon being shown a current vaccination certificate from any licensed veterinarian.

(g) All veterinarians, clinics, shelters, pet stores and other outlets where cats, dogs, and/or ferrets are available, sold or vaccinated against rabies must inform the public in

writing of the rabies and license requirements within Lee County. Such information must include the cost of the license and how a license may be obtained (including information on getting a license through the mail or in person at domestic animal services). To satisfy the information requirement the facility may post a sign or provide an informational brochure or provide the written information in a manner easily accessible and understandable.

Section Twenty-Six. 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 county license/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) It shall be unlawful to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identification of an animal. Cats are not exempt from this provision. During a recognized breed show, the owner of the dog, cat or ferret shall retain the license tag and/or rabies certificate, and shall produce the same if called upon to verify that any cat, dog or ferret has the required license and vaccination.

Section Twenty-Seven. License fees.

(a) The Lee County board of county commissioners shall set the fee by resolution.

(b) The fee is payable to the authorized agency or the authorized veterinarian. License fees collected must be properly documented and funds remitted to domestic animal services within forty-five (45) days of the sale of the tag. The director of domestic animal services may provide for an extension of the deadline, in writing, for special circumstances.

(c) Authorized sellers of the Lee County license must sell the license at the fee levels approved by the board and must keep complete and accurate records of tags sold and on hand as inventory. All theft or loss must be reported immediately to the proper authority, and a copy of the official law enforcement report must be provided to domestic animal services. Unexplained shortages/losses of tags or sales of tags at the incorrect prices are the responsibility of the seller.

(d) Authorized sellers of the Lee County license tags may charge a reasonable administrative fee to cover costs of providing that service per license issued. The maximum allowable administrative fee shall be set by the board of county commissioners through the external fees administrative code. Any authorized seller that charges an administrative fee must inform the client that such a fee is charged by that establishment/provider and that license tags are available through the county with no additional charge. Any such fees may not be added to the cost of a license but must be listed separately on any invoice/receipt.

(e) License fees are not required for governmental police dogs, or certified dogs, trained to assist the physically handicapped; but such animals must be licensed and must have received their rabies vaccination. In order to receive these license tags at no charge, the

owner must have the animal licensed through domestic animal services. No other outlet is authorized to issue these license tags.

(f) If an owner fails to obtain a valid license each year it is required, fees may be assessed for previous years' licenses for a period of up to three (3) years.

Section Twenty-Eight. Animals in motor vehicles.

(a) The owner or operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

(b) It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.

(c) Any animal control officer or law enforcement officer who observes an animal in a motor vehicle in obvious danger or distress may enter the motor vehicle by any means necessary to remove and impound the animal or take the animal to a veterinarian if necessary. If the owner of said animal cannot be contacted, the animal control officer or law enforcement officer shall leave in a prominent place in or upon the vehicle a written notice as to the reason for removal of the animal. The owner of the animal and the owner of the motor vehicle are responsible for any costs incurred.

Section Twenty-Nine. Humane treatment of animals.

(a) It is unlawful for any person to dye or artificially color any animal or fowl, including but not limited to rabbits, baby chickens and ducklings, or to bring any dyed or colored animal or fowl into this county.

(b) It is unlawful for any person to sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under four (4) weeks of age, or rabbits under two (2) months of age, to be used as pets, toys or retail premiums.

Section Thirty. Redemption and disposition of impounded and unwanted animals.

(a) Any cat, dog, or ferret impounded under the provision of this Ordinance and not redeemed by its owner after three (3) consecutive days shall become the property of domestic animal services. The three (3) day period does not apply to sick, injured, diseased or orphaned sucklings, or wild animals regulated by state wildlife agencies. Any stray cat, dog or ferret impounded that possesses a valid county license and/or microchip shall be held for five (5) consecutive days before becoming the property of domestic animal services. Litters of animals or individual members of a litter of animals, including the nursing mother and unweaned animals, that do not possess a valid county license and/or microchip may be transferred immediately upon impoundment to a private sheltering agency, rescue group or individuals for the purpose of adoption. Individual members of litters of animals who are at least six (6) weeks of age, including the mother, may be adopted immediately upon impoundment.

(b) This time period may be extended or reduced at the discretion of domestic animal services to relieve animal suffering or to limit disease contagious to humans and animals housed at domestic animal services.

- (c) Domestic animal services may utilize the services of a veterinarian to treat sick, injured or diseased animals. The owner shall be responsible for all such costs incurred.
- (d) Feral animals that do not possess a valid county license and/or microchip may be humanely euthanized upon impoundment.
- (e) Any person seeking to redeem or reclaim an animal impounded under the provisions of this Ordinance shall pay the impoundment fees, boarding fees, license fees and all other fees resulting from impounding and caring for the animal. Any animal to be released from domestic animal services must have a rabies vaccination and license or a license and rabies vaccination must be obtained by the owner. If a rabies vaccination is not available at domestic animal services for any reason, the person seeking to redeem or reclaim the animal must pre-pay the license fee, the animal will be released to its owner or his designee, who then must have the animal vaccinated for rabies by a licensed veterinarian. The certificate of vaccination must be provided to domestic animal services as a prerequisite to issuance of the license.
- (f) An owner whose animal has been impounded more than one (1) time shall be charged increasing fees for each subsequent impoundment. Fees shall be established by the board in the external fees manual.
- (g) When the ownership of an animal is deemed questionable, domestic animal services will require proof of ownership. Proof of ownership may include valid county license, veterinary records, registered microchip identification or other reliable, verifiable documentary evidence. If ownership cannot be proven by the required information the animal in question must be adopted rather than redeemed; the person claiming unproven ownership may be afforded the opportunity to adopt the animal prior to the public at the discretion of domestic animal services.
- (h) Prior to release from domestic animal services' shelter, all dogs, cats and ferrets must be microchipped; with the microchip being registered to the pet owner.
- (i) Exotic invasive animal species found at large and impounded shall be humanely euthanized. The only exceptions to this provision is if the animal is released to an educational facility for study to assist in the control and removal of the species or if the animal is to be used for educational purposes to inform the public of the dangers of invasive exotic animal species.

Section Thirty-One. Providing for the reporting of persons bitten or scratched by animals and quarantine of animals for rabies observation.

- (a) Any stray dog, cat or ferret that bites or scratches a person shall be impounded by domestic animal services and held in quarantine for a minimum period of ten (10) days from the date of bite or scratch for rabies observation or humane euthanasia and sent to the state board of health for pathological examination after the expiration of the stray holding period. Animals not redeemed within the ten (10) day quarantine period shall be considered abandoned and may be euthanized.
- (b) Owned dogs, cats or ferrets that have bitten a human may be permitted to be quarantined at home for a minimum period of ten (10) days from the date of bite or scratch for rabies observation. Information regarding the animal's description; current rabies vaccination date; owner's name, address and telephone number; the name of the animal; the address and telephone number of person bitten or scratched; and location of wound, shall be reported to the department of health. An owner whose animal has bitten

or scratched a human shall comply fully with Chapter 64D-3 Florida Administrative Code (Control of Communicable Diseases & Conditions Which May Significantly Affect Public Health).

(c) It shall be a violation of this Ordinance for any person to refuse to surrender any animal for quarantine.

(d) No owner of an animal placed under a home quarantine agreement for rabies observation shall violate the home quarantine agreement in any manner.

(e) Any dog, cat or ferret that dies or is humanely euthanized while under quarantine shall undergo pathological examination performed by the state board of health. It shall be a violation of this Ordinance for any person to refuse to surrender the body of a deceased animal while under quarantine.

(f) It is a violation of this Ordinance for anyone to kill or remove from Lee County, Florida, without the express written consent of domestic animal services or the health department any of the following:

(1) Any rabid animal;

(2) Any animal suspected of rabies or any other infectious or contagious disease;

(3) Any animal exhibiting unusual behavior;

(4) Any animal which scratches or bites a person; or

(5) Any animal under quarantine.

(g) It shall be the duty of any person having knowledge that an animal has bitten or otherwise exposed a person or any animal to rabies, to report the incident immediately to the department of health.

(h) Any person having in their possession the carcass of any dead animal exposed to rabies must surrender such carcass to domestic animal services or the health department upon demand.

(i) Animal control officers shall cooperate with the health department and with law enforcement officers in the enforcement of this section and any related state law and state agency rules.

Section Thirty-Two. Inspection of commercial animal establishments.

(a) Domestic animal services shall have the authority to enter and inspect any commercial animal establishment in the Town of Fort Myers Beach during reasonable hours, for the purpose of ascertaining violations of this Ordinance or of Florida State Statutes. Bona fide commercial agricultural animal establishments which includes livestock as defined herein, are specifically exempt from the provisions of this subparagraph (a).

(b) Any owner, manager or staff person upon demand of an animal control officer must produce any and all records pertaining to sale or purchase of animals, veterinary care, rabies certification, health certification, feed receipts, business or exhibitors licenses or permits, relating to each animal on the premises.

(c) Standards of care required to be maintained at all commercial animal establishments in the Town of Fort Myers Beach must include, but are not limited to:

(1) All animals must be given adequate food, water, shelter and veterinary care, as defined in this Ordinance.

(2) All cages, kennels, stalls or enclosures shall be cleaned daily. Any bedding provided must be clean.

- (3) In shops or kennels, room temperature shall be maintained at a level that is healthful for every species of animals kept on the premises. Adequate ventilation shall be maintained.
- (4) All buildings and sheds used for stabling animals shall be well ventilated and provide adequate protection from the elements.
- (5) Each animal shall have sufficient space to stand up, lie down, and turn around in a natural position, without touching the sides or top of the cage, stall, kennel or enclosure. Overcrowding will be determined by the inspecting officer.
- (6) Any animal that appears to be sick must be quarantined away from other animals to avoid the spread of disease and examined by a licensed veterinarian before being placed back with other animals or sold.
- (d) Each animal found in violation of this section shall be deemed a separate offense.

Section Thirty-Three. Guard dogs.

- (a) Any person utilizing a dog for the purpose of guarding a business shall register all dogs used in their business with domestic animal services. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; and certification of rabies vaccination.
- (b) Guard dogs newly acquired shall be vaccinated for rabies and registered with domestic animal services no later than seventy-two (72) hours after acquisition.
- (c) The fee for registration of a guard dog will be as provided by section thirty-six of this Ordinance.
- (d) Each guard dog will be issued with a registration number which will be obtained from domestic animal services. This number will be posted at the entrance of any property using that guard dog service. At the time of registration, each dog will be microchipped and receive an identification tag that must be affixed to the dog at all times.
- (e) Domestic animal services shall maintain a guard dog register which shall contain all data required by this section. Immediately upon transfer of ownership, death, disappearance or annual rabies inoculation of a guard dog, each guard dog service or owner shall notify domestic animal services. Upon receipt of the information, the appropriate entry shall be made in the register. If the guard dog has disappeared, an entry should be made to reflect the locale and reason of such disappearance.
- (f) An animal control officer shall have the right to enter and inspect all kennels housing guard dogs and other premises where such dogs are in use for determination of owner registration compliance.
- (g) It shall be unlawful for any person, firm or corporation to own or harbor any guard dog in the county that has not been inoculated, registered and tattooed as provided by this section.
- (h) Transportation of guard dogs. The vehicle of every guard dog service transporting any guard dog must be clearly marked, showing that it is transporting a guard dog. A compartment separate from the driver and separating each dog is required, which shall be arranged to ensure maximum ventilation for the animal.
- (i) Requirements of businesses using dogs for the purpose of guarding:

- (1) Persons who hire or use a guard dog service to patrol the premises shall provide adequate fencing or some other confining structure to keep the guard dog within the enclosed area.
- (2) Persons who hire or use a guard dog service to patrol the premises during that business' operating hours shall have said dog confined in such a manner so as not to pose a danger to the public.
- (3) At each appropriate location and entry point, and at 50-foot intervals along the fence perimeter, if applicable, a sign shall be posted including the words "Bad Dog" or "Guard Dog", with a dog picture.
- (4) All entry points shall be posted with the guard dog registration number.
- (5) Dogs used for guarding businesses must be given a humane existence, including adequate shelter, food, water and exercise.
- (6) No dog which has been classified as dangerous by domestic animal services shall be used as a guard dog.
- (j) Failure to comply with this section is a violation of this Ordinance.

Section Thirty-Four. Disposal of dead bodies of owned animals.

Upon the death of an animal, the owner shall be responsible for disposing of the carcass by burial at least two (2) feet below the surface of the ground. The approved alternative method of disposal is cremation at a licensed crematory approved by domestic animal control services. Nothing in this section prohibits the disposal of animal carcasses to rendering companies licensed to do business in this state. It is unlawful to dispose of the carcass of any domestic animal by dumping the carcass on public property, road or right-of-way, pursuant to F.S. § 823.041, as may be amended.

Section Thirty-Five. Leash Requirement.

For the duration of any time a dog is on any public property, or on any private property, other than that of its owner, to which the general public is customarily invited or permitted to enter, the owner of such dog must keep it under direct control via hand-held leash not more than six (6) feet in length. The owner must withdraw the dog from contact with any person or domestic animal unless such contact is specifically invited either

- (1) For a person: by that person, or if the person is under 18 years of age, by that person's parent or guardian; or
- (2) For a domestic animal: by that animal's owner.

Any owner of a dog who fails to control the dog in accordance with this section commits a violation of this Ordinance. This section does not apply to an individual with a disability who is accompanied by a service animal or to a trainer of service animals who is training a service animal.

Section Thirty-Six. Fines and fees.

Unless otherwise specifically provided in this Ordinance all fines and fees, including licensing fees, are set by resolution of the Town Council of the Town of Fort Myers Beach.

Section Thirty-Seven. Conflict of laws.

In the event that this Ordinance is found to be contrary to or in any way in conflict with any other Town Ordinance which regulates the same subject matter, then in said event, the more restrictive ordinance shall apply.

Section Thirty-Eight. Enforcement by other organizations.

Nothing in this Ordinance shall be construed as limiting the authority given to law enforcement officers and county animal control officers to investigate violations of state law that occur within the Town of Fort Myers Beach. Animal control officers appointed pursuant to this ordinance shall cooperate with law enforcement officers, county animal control officers, and agents of state agencies in the enforcement of state law and state agency rules related to animal control and animal cruelty.

Section Thirty-Nine. Conflicts with state law; preemption; severability.

All provisions of this Ordinance shall be construed so as not to conflict with state law. State law will preempt any provisions of this Ordinance which would otherwise appear to be in conflict therewith.

The taking and possession of wildlife, freshwater fish, saltwater fish, and other marine life are not regulated by this Ordinance.

If any one provision of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Ordinance, and shall in no way affect the validity of all other provisions of this Ordinance.

The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinances of the Town of Fort Myers Beach, except as expressly provided.

Section Forty. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Babcock and seconded by Council Member Raymond and, upon being put to a vote, the result was as follows:

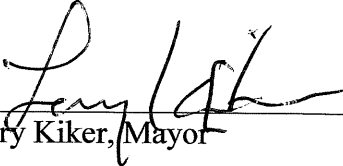
Larry Kiker, Mayor	<u>aye</u>
Herb Acken, Vice Mayor	<u>nay</u>
Bob Raymond	<u>aye</u>

Tom Babcock	<u>aye</u>
Jo List	<u>aye</u>

DULY PASSED AND ENACTED this 16th day of February, 2010.

ATTEST:

TOWN OF FORT MYERS BEACH

By:  By: 
Michelle D. Mayher, Town Clerk Larry Kiker, Mayor

Approved as to legal form and sufficiency by:


Anne Dalton, Esquire, Town Attorney