

ORDINANCE NO. 08-2008

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF LAKE PARK, FLORIDA BY CREATING NEW CHAPTER 11 TO BE ENTITLED "ANIMALS"; PROVIDING FOR THE CREATION OF NEW ARTICLE 1, TO BE ENTITLED "GENERAL REGULATIONS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-1 TO BE ENTITLED "DEFINITIONS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-2 TO BE ENTITLED "BIRD SANCTUARY DECLARED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-3 TO BE ENTITLED "CRUEL AND INHUMANE TREATMENT OF ANIMALS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-4 TO BE ENTITLED "PROVISION OF FOOD AND WATER TO CONFINED ANIMALS REQUIRED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-5 TO BE ENTITLED "MINIMUM REQUIREMENTS FOR THE POSSESSION AND SHELTERING OF CERTAIN ANIMALS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-6 TO BE ENTITLED "MAXIMUM NUMBER OF HOUSEHOLD PETS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-7 TO BE ENTITLED "REMOVAL OF PET EXCREMENT REQUIRED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-8 TO BE ENTITLED "NEGLECT AND/OR ABANDONMENT OF ANIMALS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-9 TO BE ENTITLED "NUISANCES CREATED BY ANIMALS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-10 TO BE ENTITLED "ANIMALS WITH CONTAGIOUS DISEASES PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-11 TO BE ENTITLED "AID TO INJURED ANIMALS REQUIRED"; PROVIDING FOR THE CREATION OF NEW ARTICLE II OF CHAPTER 11, TO BE ENTITLED "SUPPLEMENTAL REGULATIONS PERTAINING PRIMARILY TO DOGS AND CATS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-13 TO BE ENTITLED "REGISTRATION TAGS AND LICENSES FOR DOGS AND CATS REQUIRED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-14 TO BE ENTITLED "DOGS RUNNING AT-LARGE PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-15 TO BE ENTITLED "ANIMALS INJURING OR KILLING OTHER ANIMALS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-16 TO BE ENTITLED "DOGS DAMAGING PROPERTY OF OTHERS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-17 TO BE ENTITLED "INJURY TO AND/OR INTERFERENCE WITH POLICE DOGS PROHIBITED"; PROVIDING FOR THE CREATION OF NEW SECTION 11-18 TO BE ENTITLED "REGULATIONS PERTAINING TO VICIOUS ANIMALS AND DANGEROUS DOGS"; PROVIDING FOR THE CREATION OF NEW SECTION 11-19 TO BE ENTITLED "IMPOUNDMENT"; PROVIDING FOR THE CREATION OF

NEW SECTION 11-20 TO BE ENTITLED “PENALTIES; PRIMA FACIE EVIDENCE OF VIOLATIONS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Town staff has recommended to the Town Commission that the Town Code be amended to provide for regulations pertaining to animals, including but not limited to, regulations related to the proper possession, treatment, conduct and behavior of pets and pet owners, damages caused by animals and associated penalties and liabilities of animal owners, provisions for impoundment of animals, regulations addressing dangerous and vicious dogs and feral cats, as well as the declaration of the entire corporate limits of the Town of Lake Park as a bird sanctuary, all as to be set forth in Chapter 11, Articles I and II, of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, Town staff has determined that creating new Chapter 11, Article I, Sections 11-1 through 11-11 inclusive, and Article II, Sections 11-13 through 11-20, inclusive of the Town Code, is necessary to provide basic appropriate regulations, restrictions, and requirements for animal control for the benefit of Town residents and visitors, and the public health safety and general welfare; and

WHEREAS, after due notice and an opportunity for public comment at public hearings on this Ordinance as required by law, the Town Commission of the Town of Lake Park has determined that is in the best interest of the public health, safety, and general welfare, to amend the Town Code to create a new Chapter 11 to be entitled “Animals”, and a new Article I to be entitled “General Regulations”, and that the following new Code Sections also be created,

codified, and included in Chapter 11, Article I: Section 11-1 to be entitled “Definitions”; Section 11-2 to be entitled “Bird sanctuary declared”; Section 11-3 to be entitled “Cruel and inhumane treatment of animals prohibited”; Section 11-4 to be entitled “Provision of food and water to confined animals required”; Section 11-5 to be entitled “Minimum requirements for the possession and sheltering of certain animals”; Section 11-6 to be entitled “Maximum number of household pets”; Section 11-7 to be entitled “Removal of pet excrement required”; Section 11-8 to be entitled “Neglect and/or abandonment of animals prohibited”; Section 11-9 to be entitled “Nuisances caused by animals prohibited”; Section 11-10 to be entitled “Animals with contagious diseases prohibited”; Section 11-11 to be entitled “Aid to injured animals required”; and

WHEREAS, the Town Commission has also determined that is in the best interest of the public health, safety, and general welfare, to amend the Town Code to create new Article II of Chapter 11, to be entitled “Supplemental regulations pertaining primarily to dogs and cats”; and that the following new Code Sections also be created, codified, and included in Chapter 11, Article II: Section 11-13 to be entitled “Registration tags and licenses for dogs and cats required”; Section 11-14 to be entitled “Dogs running at-large prohibited”; Section 11-15 to be entitled “Animals injuring or killing other animals prohibited”; Section 11-16 to be entitled “Dogs damaging property of others prohibited”; Section 11-17 to be entitled “Injury to and/or interference with police dogs prohibited”; Section 11-18 to be entitled “Regulations pertaining to vicious animals and dangerous dogs”; Section 11-19 to be entitled “Impoundment”; and Section 11-20 to be entitled “Penalties; prima facie evidence of violations”.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct findings of fact of the Town Commission.

Section 2. Chapter 11, Article I, Sections 11-1, 11-2, 11-3, 11-4, 11-5, 11-6, 11-7, 11-8, 11-9, 11-10, and 11-11 of the Code of Ordinances of the Town of Lake Park, Florida are hereby created to read as follows:

CHAPTER 11

ARTICLE I. GENERAL REGULATIONS

Sec. 11-1. Definitions.

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

Abandon means for an owner, harborer, or caregiver to forsake an animal entirely, or to neglect or refuse to provide or perform the basic legal obligations under state and local law for the care and support of an animal.

Animal means every living non-human creature, both domestic and wild.

Animal control authority means the town, Palm Beach County, Palm Beach County Animal Care & Control, and/or any other entity acting alone or in concert with the town, and which may also be authorized by the town to enforce the animal control laws of the town.

At-large means off the premises of the owner, harborer, or caregiver, unless accompanied by an attendant, who shall have the cat or dog firmly held by a collar and leash, and which leash may not exceed ten feet in length.

Dangerous dog means any dog that, according to the records of Palm Beach County Care & Control, or any other appropriate governmental entity or agency with jurisdiction:

(a) has without provocation aggressively bitten, attacked, or endangered a human being, or has inflicted severe injury on a human being on public or private property, or

(b) has, without provocation, severely injured or killed a domestic animal while off the owner's property, or

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

(d) has, without provocation, chased or approached a person upon the streets, sidewalks or any public grounds in an aggressive, menacing fashion or with an apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons, and dutifully investigated by the appropriate authority.

A dog shall not be declared dangerous if it is determined by the appropriate authority, that the threat, injury or damage was sustained by a person who, at the time, was unlawfully on the dog

owner's property or, while lawfully on the dog owner's property, was teasing, tormenting, abusing, torturing, attacking, or assaulting the dog or its owner or a family member or another animal. No dog may be declared dangerous, if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack, assault, or battery.

Dangerous or vicious animals shall mean any animal that possesses fierce or dangerous propensities, which is likely to cause injury to persons or other domesticated animals, or damage to property, or any animal which exhibits traits which are ungovernable or unmanageable, or any animal which has bitten one or more persons without provocation on two separate occasions within a period of six months.

Direct control shall mean immediate, continuous physical control of an animal at all times, such as by means of a fence, cage, kennel, leash, cord, or chain of such strength to restrain the same; or in the case of specifically trained or hunting animals which immediately respond to such commands, direct control shall also include audible, aural, and/or oral control, if the controlling person is at all times clearly and fully within unobstructed sight and hearing of the animal.

Domesticated household pet and domesticated animal includes dogs, cats, parrots, parakeets, canaries, rabbits, guinea pigs, gerbils, hamsters, fish, turtles and other animals that can be legally sold in a licensed pet shop in the state of Florida, and which is kept as a pet for the purpose of providing human companionship. Domesticated household pets and/or domesticated animals do not include animals which are considered "exotic" or "wild animals", and/or which require a permit from the state of Florida before such animals may be purchased, sold, or possessed. The following animals are not considered household pets or domesticated animals pursuant to this chapter: livestock, wild animals as defined by the State of Florida Fish and Wildlife Conservation Commission, and hoofed animals of any kind, excluding purebred miniature potbellied pigs, also known as *Sus scrofa bittatus*. The *Sus scrofa bittatus* are considered household pets, and may be kept in compliance with the applicable provisions of this chapter.

Feral animal means an animal that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication and has no known owner. Stray animals may be feral or tame, but are considered feral when they are not known to be owned by another human or are unwanted.

Harborer means any person or entity which performs acts of care, shelter, protection, restraint, refuge, food or nourishment in such a manner as to control an animal's activities. For purposes of this chapter, an animal harborer is generally synonymous with an animal caregiver.

Kennel shall mean any place of business at which dogs or cats are kept for sale, breeding, boarding, treatment or grooming purposes. The word "kennel" shall not be held to include any humane society, animal protection agency, veterinary clinic or hobby breeder.

Livestock shall mean any grazing animal, such as horses, cattle, sheep, donkeys, mules, buffalos, llamas, swine, goats, other hoofed animals, emus, ostriches, and rheas that are raised for private use or commercial purposes. However, purebred miniature potbellied pigs shall be exempt from this definition.

Nuisance caused by animals means, but is not necessarily limited to, actions of animals which:

(1) disturb the peace and quiet enjoyment of property or the life of any person, such as habitually or continually barking, howling, crying, screaming, or making other bothersome noises.

(2) disturb the peace and quiet enjoyment of property or the life of any person, such as destroying, desecrating, defecating, or soiling public or private property, chasing persons, vehicles, and other animals, running at large and/or in packs, attacking or biting other persons and/or animals or other actions which are threatening or menacing and which would cause a reasonable person to believe that an animal attack or bite may be imminent.

(3) failing to remove animal waste, hair, rotting food, and/or other animal filth from the animal owner's (and/or harbinger or caregiver) property, resulting in noxious odors, the attraction of rodents, insects, vermin, animal pests and parasites (i.e., ticks, fleas, worms, etc.), and the creation of other offensive and nuisance-like conditions.

(4) failing to eradicate fleas, ticks and other animal pests and parasites from the animal owner's (and/or harbinger or caregiver) property which result in an infestation or proliferation of the same beyond the boundaries of the animal owner's (and/or harbinger or caregiver) property, and/or other behavior that interferes with the reasonable use and quiet enjoyment of the life and/or real or personal property of another person.

Owner shall mean any person, firm, corporation, entity, or organization possessing, harboring, keeping, or having the care, control, or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian.

Police dog means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principle purpose of aiding in the detection of criminal activity, enforcement of laws, apprehension of offenders, and/or rescue and recovery.

Proper enclosure of a dangerous dog means, while on the owner's (and/or harbinger or caregiver) property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen, cage, or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. All such pens, cages, or structures shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure, and shall also provide protection for the dog from the elements.

Torture, torment, cruelty shall include every act, omission, or neglect whereby unnecessary or unjustifiable mental or physical pain or suffering is caused, permitted, or allowed to continue when cessation is possible and/or where there is a reasonable remedy or relief from the condition(s) causing the pain and suffering.

Sec. 11-2 Bird sanctuary declared.

The entire corporate limits of the Town is declared to be a protected bird sanctuary. It shall be unlawful for any person to trap, hunt, shoot, kill, or attempt to trap, hunt, shoot kill, wound, maim, or molest any bird or wild fowl of any kind, in any manner or to rob bird or wild fowl nests, disturb their eggs, or young wild fowl nests, or to throw any missile, including the use of slingshots or any other weapon at any bird or wild fowl of any kind.

Sec. 11-3 Cruel and inhumane treatment of animals prohibited.

(a) The provisions of Sections 828.12 and 828.13, Fla. Stat., as they may be amended from time to time, are hereby adopted by reference in this article, and shall be enforced as if fully set forth herein. A copy of Chapter 828, Fla. Stat., is available for inspection in the office of the town clerk.

(b) It is a violation of this article for any person to commit an act or omission, or cause an act to be committed, in violation of Sections 828.12 and/or 828.13, Fla. Stat, as amended from time to time.

(c) Torture, cruelty, and the inhumane treatment of animals is prohibited. It is a violation of this article, for any person to torture, engage in animal cruelty, or inhumanely treat any animal as set forth herein. For the purpose of this section, the term "inhumane" means acts which:

(1) are physically cruel; or

(2) expose an animal to unusual, unnecessary and otherwise avoidable physical harm.

d) Inhumane treatment includes, but is not limited to, any of the following acts or omissions by an animal's owner or caretaker:

(1) An animal is allowed to become overheated, or is not supplied with a sufficient quantity of wholesome food, water, shade or protection from elements, keeps an animal in any enclosure without wholesome exercise and change of air.

(2) An animal which is improperly or inhumanely contained or denied proper exercise or rest. For the purposes of this article, the regulations set forth in Section 11-4 herein, and the United States Department of Agriculture and Florida Game and Fresh Water Fish Commission regulations pertaining to containment, exercise and rest, shall be the standards for proper containment, exercise and rest, as said regulations may be amended from time to time;

Sec. 11-4 Provision of food and water to confined animals required.

(a) No person owning or responsible for confining or impounding any animal, may refuse or neglect to continuously supply the animal with a sufficient supply of good and wholesome food and water.

(b) The food shall be sufficient to maintain all animals in good health.

(c) Potable water shall be available at all times for all animals.

Sec. 11-5. Minimum requirements for the possession and sheltering of certain animals.

(a) Possession generally. No person shall keep, possess or maintain any live animal, including livestock or fowl, within the town, except as provided herein. Dogs, cats, parrots, parakeets, canaries, rabbits, guinea pigs, hamsters, gerbils, turtles and other animals that can be legally sold in a licensed pet shop in the state may be kept, possessed and maintained as household pets within the town so long as they are kept, possessed and maintained in compliance with the provisions of this chapter, and provided that these household pets do not engage in behaviors that constitute a nuisance under the provisions of this chapter. Proper sanitary measures shall be observed and followed at all times in connection with the keeping, maintaining or possessing of such pets.

(b) Proper shelter. No person owning or responsible for confining or impounding any animal may fail to provide, the animal with proper shelter as prescribed in this section.

(c) Indoor standards. Minimum indoor standards of shelter shall include:

(1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(d) Outdoor standards. Minimum outdoor standards of shelter shall include:

(1) Shelter from sunlight. For all animals tied or confined unattended outdoors during months of April through November, sufficient shade by natural or artificial means shall be provided to protect animals from direct sunlight.

(2) Shelter from inclement weather.

a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

b. Dogs. If a dog is tied or confined unattended outdoors or in an unheated enclosure, a shelter of suitable size to accommodate the dog shall be provided. The minimum specifications for such shelter shall be as follows-

1. The shelter must be a moisture proof, weather tight doghouse maintained in good repair:

2. The shelter must be constructed and maintained so as to provide sufficient space to 1) allow the dog to turn around freely-, 2) allow the dog to easily sit, stand and lie in a normal position. 3) keep the dog clean, dry and comfortable: 4) maintain the dog's body heat;

3. The shelter must be made of durable materials including, but not limited to, wood or molded plastic;

4. The shelter must have an entrance covered by a self-closing swinging door or covering, or an "L" shaped entrance to prevent the wind and elements from blowing directly into the house;

5. The shelter must have clean bedding to provide insulation and protection against cold and dampness and promote the retention of body heat. Acceptable bedding shall include, but not be limited to, blankets, hay, straw, or cedar shavings;

6. The shelter must have suitable drainage, which rapidly eliminates excess water.

(e) Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:

(1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Space requirement. Enclosures shall be construed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(f) Sanitation standards. All pens, yards, structures or areas where animals are kept shall be maintained in a nuisance-free manner. Animal droppings shall be removed regularly and disposed of properly so not to attract insects or rodents, or become unsightly or cause objectionable odors.

(f) Tying or tethering dogs. A dog or puppy may be restrained by a fix-point chain or tether only under the following conditions:

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

(2) No chain or tether shall weigh more than one-eighth (1/8) of the dog or puppy's body weight.

(3) Any chain or tether shall be at least ten (10) feet in length and have swivels on both ends.

(4) Any chain or tether must be attached to a properly fitting collar or harness worn by the animal. Choker collars shall not be used for dogs restrained on a fix-point chain or tether.

Sec. 11-6. Maximum number of household pets.

No person shall keep, maintain, possess or harbor more than six (6) domesticated household pets or domesticated animals upon a single lot, residence, or commercial/industrial business site. A

violation of this limitation shall constitute prima facie evidence of creating and maintaining a nuisance in violation of this chapter. The limitation established in this section shall not apply to dogs or cats under three months of age or to fish or in commercial areas any animal shelter, humane society, kennel, pet shop, groomer, safe-harbor or a similar facility properly certified or licensed by the state of Florida or Palm Beach County Animal Care and Control.

Sec. 11-7. Removal of pet excrement required.

(a) It shall be unlawful for any person to aid, abet, assist or allow any animal under their care, custody or control, or subject to their command, to deposit or place on any of the public or private sidewalks, parkways or walkways or parts of streets, or public parks or ways on the oceanfront devoted to the use of the public, or upon premises owned by any person other than the owner or custodian of such animal, any offal, feces or excrement of the animal.

(b) The owner or custodian of any animal is required to remove and dispose of, in a sanitary manner, the offal, feces, and/or excrement of any the animal which is deposited on public or private property, and to remove and properly dispose of animal waste, hair, rotting food, and/or other animal filth from the animal owner's own property if such conditions result in or cause the emission of noxious odors, are likely to attract rodents, insects, vermin, animals parasites and pests, and/or create other nuisance-like conditions which create a public health and safety hazard(s) and/or are offensive to neighbors and/or the general public.

Sec. 11-8. Neglect and/or abandonment of animals prohibited.

No person may abandon or discard any domesticated household pet or domesticated animal. Any code enforcement officer, law enforcement officer, or authorized Palm Beach County animal control officer, may remove, shelter and care for any animal which has been found to have been neglected, abandoned, tortured, inhumanely treated or otherwise treated in a cruel manner, cruelly exposed to the weather, confined in a vehicle without sufficient ventilation, water and/or in extreme temperatures, starved or denied adequate water, or other life threatening or endangering circumstances, and may deliver the animal to another person to be sheltered, cared for, and given medical attention, if necessary. Whenever reasonably possible, the owner, if known, shall be immediately notified, and the town, or other entity or person, having possession of the animal, shall have a lien thereon for its care, keeping and medical attention and the expense of notice.

Sec. 11-9. Nuisances created by animals prohibited.

(a) It shall be unlawful to keep or maintain any dog, cat, bird, or other animal, within the town, which causes a noise disturbance by habitually howling, barking, meowing, squawking, or other noise making. It shall also be unlawful to cause any animal, bird or fowl to make or create any excessive or unnecessary noise by taunting, beating or coercing the animal, bird or fowl, or by depriving same of necessary food, water or shelter.

(b) The town's code compliance division shall investigate alleged violations of this section upon the receipt of either:

(a) Sworn affidavits of complaint signed by 2 unrelated residents living in separate dwellings in the close vicinity of the alleged violation; or

(b) Sworn affidavit of complaint signed by a resident living in the close vicinity of the alleged violation together with a video tape of the activity complained of recorded by, or recorded in the physical presence of, such resident.

(c) The affidavit(s) shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the owner or custodian, if known, and a description of the animal, if known. The video tape shall include the date and time of the event being recorded and shall provide evidence of the nature and extent of the violation.

(d) Upon receipt of the materials set forth in either (a)(1) or (a)(2), code enforcement procedures pursuant to chapter 9 of this Code may be instituted against the owner or custodian of any animal alleged to be in violation of this section.

(e) It is unlawful for any person to intentionally provide food, water, or other forms of sustenance or care to a feral cat or a feral cat colony.

Sec. 11-10. Animals with contagious diseases prohibited.

(a) No person who owns or has the charge of any animal and who has knowledge that the animal has a contagious or infectious disease or who knows that the animal has recently been exposed to a contagious or infectious disease, to permit the animal upon any public property within the town, to run at-large within the town, or to come into contact with the animal of another person without first disclosing the contagious or infectious disease and obtain the consent and permission of the non-infected animal owner.

(b) If a code enforcement officer or law enforcement officer has a reasonable belief that any dog or cat is not in a healthy condition, and/or may be suffering from a contagious or infectious disease, and/or may have bitten a person or other animal, the officer shall temporarily impound the dog or cat. The officer may keep the dog or cat in temporary quarantine for a period of time until the animal can be released to Palm Beach County Animal Care & Control for the purpose of testing the dog or cat for disease.

(c) Any dog or cat suspected of being infected with rabies must be released by its owners or custodian to Palm Beach County Animal Care & Control for laboratory analysis by a licensed veterinarian. The town shall have no liability for damages or other compensation to the owner of the dog or cat as a result of the impoundment and/or any procedure utilized by Palm Beach County Animal Care & Control on the dog or cat.

Sec. 11-11. Aid to injured animals required.

It shall be unlawful for any person who injures or maims any animal by running over or into the animal, or otherwise coming into contact with the animal, with an automobile, truck, motorcycle, bicycle, dirt bike, all terrain vehicle, any other type of motorized or non-motorized vehicle, or other object, to fail to immediately notify the owner of the animal, and/or a town code compliance officer, and/or a veterinarian, and/or a law enforcement officer, and/or Palm Beach County Animal Care & Control and seek medical attention for the animal. It shall be an additional violation of this section to leave the scene of an accident, which resulted in injuries to any domesticated animal or household pet, specifically including but not limited to, dogs and cats.

Section 3. Chapter 11, Article II, to be entitled “Supplemental regulations pertaining primarily to dogs and cats”; and Sections 11-13, 11-14, 11-15, 11-16, 11-17, 11-18, 11-19, and

11-20 of the Code of Ordinances of the Town of Lake Park, Florida are hereby created to read as follows:

**ARTICLE II. SUPPLEMENTAL REGULATIONS PERTAINING PRIMARILY TO
DOGS AND CATS.**

Sec. 11-13. Registration tags and licenses for dogs and cats required.

(a) Every person who is the owner, caregiver or harbinger of any dog or cat, over the age of four months within the town must obtain a tag or license for each dog or cat from Palm Beach County Animal Care & Control denoting currently effective registration and inoculation data. No tag or license shall be granted or renewed until evidence of vaccination for rabies by a licensed veterinarian has been presented.

(b) All dogs over the age of four months shall be required to wear a sturdy collar to which the current license tag is securely affixed at all times except as otherwise provided by state law. It shall be the responsibility of the owner, keeper, or harbinger of such dog to ensure compliance with this section. Cats are not required to wear a collar or tag, but must be registered and inoculated pursuant to the provisions of this article.

(c) No person other than the owner or keeper, may remove or cause to be removed, the collar or tag required by this section from any dog within the town. A police dog shall be exempt from wearing an animal license tag while being used by a law enforcement agency.

Sec. 11-14. Dogs running at large prohibited.

It shall be a violation of this section for any dog to be upon any street, boulevard, road, alley, or other public or private property within the town, unless accompanied by an attendant who shall have such dog firmly held by collar and leash, which leash shall not exceed ten feet in length. The person who owns, keeps, harbors, or has possession, care, custody or control of any such dog shall be liable for a violation of this section. In the prosecution of any violation of this section, it shall not be necessary for the town to prove notice, knowledge, or neglect on the part of the owner, caregiver, harbinger, keeper, or other accused person, that the dog was either loose, running at large, or disposed to running at large. Any dog found running at large within the town is hereby declared to be a public nuisance, and the owner, caregiver, harbinger, keeper, or other accused person, of any dog found running at large shall be guilty of a violation of this section.

Sec. 11-15. Animals injuring or killing other animals prohibited.

Any person who owns or has in their possession, care, custody or control, any animal which has injured or killed, or has a habit of injuring and killing, dogs and/or other animals, and whose animal is found running at large is deemed to be in violation of this section. A violation of this section, shall be in addition to, and a separate violation, from a violation of section 11-14.

Sec. 11-16. Dogs damaging property of another prohibited.

(a) It shall be unlawful for any dog to enter upon the property of another and damage real and/or personal property. The person who owns, keeps, harbors, or has possession, care, custody or control of any such dog shall be liable for a violation of this section.

(b) Property of another shall include private property and any abutting publicly owned property, easements, rights-of-way, cemetery, church or any other property set apart for public use or held for benevolent or charitable purposes which the owner of the abutting private property maintains by planting, mowing, watering, fertilizing or similar care of grass, shrubbery, trees and the like, planted thereon. The intent of this section is to include all abutting property regardless of ownership except the property owned by the owner of the dog, or the property of those who have consented to the owner of the dog, to do damage on their property.

(c) Damage to property shall include, but not be limited to, urinating or defecating by any dog upon any property as contemplated herein.

(d) In the event that any dog enters upon the property of another within the corporate limits of the town and causes damage thereon, proof that (1) the damaged property belongs to a person other than the owner of the dog; and (2) the damage to property has resulted from the actions of the dog; and (3) the identity of the dog, shall be sufficient to for a finding of a violation of this section against the person who owns, keeps, harbors, or has possession, care, custody, or control of any the dog causing the damage. Consent of the owner of the property shall be a defense to the violation.

Sec. 11-17. Injury to and/or interference with police dogs prohibited.

It is unlawful for any person to knowingly batter, inflict cruelty or inhumane treatment, disable, injure, kill, torture, or torment any dog used by any law enforcement agency in an official capacity, while the animal is with an on-duty police officer, or while the animal is under the control and direction of a police officer and performing a law enforcement function, or to interfere with or obstruct any animal while the animal is being employed by a law enforcement agency in any authorized act within the agency's official capacity.

Sec. 11-18. Regulations pertaining to vicious animals and dangerous dogs.

(a) It shall be unlawful for any person to keep any vicious or fierce animal within the town unless it is confined within a secure building or enclosure or unless it is securely muzzled, and under the restraint of a competent person who by means of a leash, chain or rope has such animal under control at all times. All vicious dogs kept in the town shall be adequately muzzled if they appear on the public streets, thoroughfares or other public places in the town. An animal may be declared to be vicious by the Palm Beach County Animal Care & Control on the showing that the animal has bitten a person without provocation on two separate occasions within a period of six months, or if such animal shows fierce or dangerous propensities which if unrestrained are likely to cause injury to persons other than the owner. This declaration of viciousness shall be delivered in writing to the owner of the animal. If a dog that has not been declared a "dangerous dog" attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by the local animal control authority, placed in quarantine, if necessary, for the proper length of time or held for ten (10) business days after the owner is given written notification under Section 767.12, Fla. Stat., as amended, and thereafter destroyed in an expeditious and humane manner.

(b) It is unlawful for the owner of a dog who has been declared a "dangerous dog" by Palm Beach County Animal Care & Control, to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person or animal. The

owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons who are 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

(c) The owner of a dog who has been declared a “dangerous dog” by Palm Beach County Animal Care & Control must provide the town with a copy of the certificate of registration for the dog from the County, and each annual renewal of the certificate, and a current certificate of rabies vaccination for the dog. The dog must be confined in a proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property. The dog must have permanent identification on the dog, such as a tattoo on the inside thigh or electronic implantation.

(d) The owner shall immediately notify the Palm Beach County Sheriff’s Office when a dog that has been classified as dangerous by Palm Beach County Animal Care & Control:

- (1) Is loose or unconfined;
- (2) Has bitten a human being or attacked another animal;
- (3) Has been sold, given away, or died;
- (4) Has moved to another address.

(e) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner shall be guilty of a misdemeanor of the first degree, punishable as provided in Sections 775.082 and/or 775.083, Fla. Stat., as amended. If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in Sections 775.082, 775.083, and/or 775.084, Fla. Stat., as amended.

Sec. 11-19. Impoundment.

(a) Any law enforcement officer, authorized code compliance officer, authorized Palm Beach County animal control officer, or other authorized agent of the owner, may take impound any animal found in violation of any provisions of this chapter, and relinquish custody and care of the animal to Palm Beach County Animal Care & Control, the North County Humane Society, the Animal Rescue League of Palm Beach County, or any other appropriate animal rescue and/or control agency, as soon as is reasonably possible under the circumstances.

(b) Any law enforcement officer, authorized code compliance officer, authorized Palm Beach County animal control officer, or other authorized agent of the town who impounds or otherwise acquires possession of a dog or cat which has a license tag affixed shall make every effort to notify the owner as soon as is reasonably possible. Notice of the impoundment shall be posted in a conspicuous place in Town Hall in substantially the same form:

NOTICE OF IMPOUNDED ANIMAL

Date: _____

To Whom It May Concern:

I, _____ the undersigned officer, have this day impounded a dog, cat (circle one) _____, described as follows:

Canine: _____ Breed (if known): _____
 Feline: _____ Breed (if known): _____
Sex: _____ Color: _____ Approximate Age: _____
Name of Owner (if known): _____
License No.: (if known) _____ Microchip No: _____
Name (if known): _____
Distinguishing characteristics (if any): _____
Current location of impoundment of animal: _____

Please contact the undersigned officer at (561) _____ - _____ to make arrangements for the return of your animal. An administrative fee will be charged and must be paid by the owner before the animal will be released into the care, custody, and control of the owner. Proof of ownership, registration, current vaccinations and general fitness to care for the dog will be required and assessed at the time you attempt to retrieve your animal. Please make sure that you bring all supporting documentation and evidence that you are a fit custodian for this animal.

By: _____
Printed Name of Officer: _____

(c) At any time prior to an impounded dog or cat being released to Palm Beach County Animal Care & Control, the North County Humane Society, the Animal Rescue League of Palm Beach County, or any other appropriate agency, the owner of the animal may apply for its release. The release of the animal may in the sole discretion of the impounding agency be granted, provided that the agency has reasonable and good cause to believe and determine among other things, that person seeking release of the animal has submitted adequate documentation indicating that: (1) the person is in fact the rightful owner of the animal sought to be released by competent evidence such as a rabies vaccination certificate, sales receipt, affidavits of neighbors, photographs or other documentary evidence; (2) the health, safety, mental and physical well being of the animal is not at risk; (3) the animal will not be neglected or abused; (4) prior to release of the animal that the owner shall pay the town an established administrative fee set by resolution of the town commission and on file in the town clerk's office to cover such items but not limited thereto, as the town's costs incurred in the investigation, capture, board and feed, veterinary expenses, code enforcement fines and costs, and care of the dog or cat during the period of its retention by the town or under its authority; (5) if a dangerous dog is impounded, the owner of must comply with all provisions of this article applicable to dangerous dogs; (6) if an animal which has been subjected to cruelty is impounded, a court of competent jurisdiction must issues a release order, as provided by Section 828.073, Fla. Stat.; (7) if an impounded animal is not vaccinated against rabies, or does not have a valid rabies license tag, the owner must arrange for rabies vaccination and obtain an animal license tag for the animal before the animal will be released.

Sec. 11-20. Penalties; prima facie evidence of violations.

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 in Section 775.082, and Fla. Stat., as amended, and Section 775.083, Fla. Stat., as amended. In the event any dog or other animal shall be found in violation of the provisions of this chapter, proof of the violation and the identity of the dog or other animal shall be prima facie evidence of the violation of this chapter by the

person owning or having charge of or control of the dog or other animal. In addition to the enforcement of the provisions of this chapter through the town's code compliance division, the town shall have the right to enforce by injunction, or any other appropriate legal means, compliance with the regulations and requirements of this chapter.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

Section 7. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 7 day of May, 2008, the foregoing Ordinance, was offered by Commissioner Carey who moved its approval. The motion was seconded by Vice-Mayor Daly, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR ED DALY	<u>/</u>	_____
COMMISSIONER CHUCK BALIUS	<u>/</u>	_____
COMMISSIONER JEFF CAREY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 11 DAY OF May, 2008

Upon Second Reading this 21 day of May, 2008, the foregoing Ordinance, was offered by Commissioner Carey who moved its adoption. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>Absent</u>	_____
VICE MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

The Mayor thereupon declared **Ordinance No. 08-2008** duly passed and adopted this 21 day of May, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian Mendez Lemley
Town Clerk, Vivian Mendez Lemley
(Town Seal)

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA