

ORDINANCE NO. 92- 1

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, RESTATING ST. JOHNS COUNTY ORDINANCE 88-42 AS PREVIOUSLY AMENDED, WHICH IS THE ORDINANCE MAKING IT UNLAWFUL FOR ANY OWNER, OR PERSON OR ENTITY IN CHARGE OF A DOG OR CAT TO ALLOW THE DOG OR CAT TO ENTER UPON ANY OF CERTAIN DESCRIBED PROPERTIES LOCATED WITHIN THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY FLORIDA, TO WIT: PUBLIC OR PRIVATE ROADS, DEDICATED ROADS, PUBLIC PROPERTY, AND THE PRIVATE PROPERTY OF OTHER PERSONS OR ENTITIES, UNLESS SUCH DOG OR CAT IS WEARING A COLLAR AND IN THE CASE OF DOGS SUCH DOG IS IN THE ACTUAL PHYSICAL CONTROL OF A PERSON BY LEASH, CORD, CHAIN OR OTHER RESTRAINT; AND, IN THE CASE OF PRIVATE PROPERTY, UNLESS THE ENTRY OF THE DOG OR CAT IS WITH THE PERMISSION OF THE PROPERTY OWNER OR LESSEE; REQUIRING THAT THE COLLAR CONTAIN OR HAVE ATTACHED THERETO THE DOG OR CAT OWNER'S NAME AND CURRENT TELEPHONE NUMBER; PROVIDING DEFINITIONS; PROVIDING PROCEDURES; PROVIDING FOR THE SEIZURE, IMPOUNDMENT AND RETURN OR DISPOSAL OF DOGS AND CATS IN VIOLATION; PROVIDING PENALTIES AND IMPOUNDMENT FEES; PROVIDING FOR SEVERABILITY; REPEALING PRIOR DOG ORDINANCES PERTAINING TO NAMED SUBDIVISIONS. THIS ORDINANCE ALSO AMENDS COUNTY ORDINANCE 88-42 AS PREVIOUSLY AMENDED BY CHANGING THE DEFINITION AND QUALIFICATIONS OF ANIMAL CONTROL OFFICER; MODIFYING THE PENALTY, PROCEDURE AND CITATION PROVISIONS; CHANGING THE IMPOUNDMENT FEES AND THE PROVISIONS FOR THEIR PAYMENT; PROVIDING FOR CERTAIN CHANGES TO THIS ORDINANCE BY RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, (the "Board") that St. Johns County, Florida ordinance #88-42, as previously amended, is hereby restated and amended as follows:

Section 1. This ordinance is enacted pursuant to Florida Statute §828.27 and other applicable Florida law.

Section 2. Any person or legal entity who shall own, be in charge of, be responsible for, or be in control of, any dog or cat shall not allow or permit such dog or cat to enter upon any public or private road, dedicated road, public property or the private property of other persons or entities when such road or property is located within the unincorporated area of St. Johns County, Florida unless such dog or cat is wearing

a Collar as defined herein and in the case of dogs unless such dog is in the actual physical control of such a person by leash, cord, chain or other physical restraint, and in the case of entry upon private property of others by dogs or cats unless the entry is with the permission of the property owner or lessee. The Collar must contain or have attached thereto the dog or cat owner's name and current telephone number.

Section 3. Definitions:

- A. Animal Control Officer shall mean a person meeting the requirements of Florida Statute §828.27 who is designated by the County Administrator to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this ordinance. He or she shall also have the power to control, catch and impound dogs and cats.
- B. Collar shall mean a device that encircles the neck of the dog or cat and contains or has attached thereto the animal owner's name and current telephone number.
- C. Dog shall mean and include all members of the canine families.
- D. Own a dog or cat shall mean any person or entity having a right of property in a dog or cat, or who keeps or harbors a dog or cat, or has it in his care, or acts as its custodian, or who permits a dog or cat to remain on or about any premises occupied or controlled by such person or entity.
- E. Private property of others shall not be deemed to include property leased to or rented by the owner of the dog or cat.

Section 4. Violations of Section 2 of this ordinance are hereby declared to be civil infractions for which there may be imposed by the County Court a maximum penalty not to exceed \$500. An individual or entity cited for violation of Section 2 of this ordinance may contest the citation in County Court. In the event that the individual or entity cited for violation of such Section shall not contest the citation, the non-contest penalty shall be \$25.00 for the first and/or second offense. Any person or entity that willfully refuses to sign and accept a citation issued by an Animal Control Officer is guilty of a misdemeanor of the second degree punishable as provided by Florida Statutes §§775.082 and 775.083. In the event the violator does not pay the non-contest penalty to the St. Johns County Clerk of Courts within 15 days of the date the citation is issued, the County Court may vacate the non-contest penalty and impose a penalty greater than the non-contest penalty but not to exceed the above-described maximum penalty. Notwithstanding any other provision of this ordinance, all persons issued three (3) or more citations pursuant to this ordinance are hereby mandatorily required to appear before the County Court for the third citation and for each citation thereafter. The County Administrator or his designee shall maintain records to prove the number of citations issued to each person or entity.

SECTION 5. The Animal Control Officer shall have authority to issue a citation when the officer has probable cause to believe that a person or entity has committed a civil infraction as defined by Sections 2 and 4 of this ordinance. The person or entity cited may contest the citation in the County Court in and for St. Johns County, Florida.

The citation shall contain:

1. The date and time of issuance.
2. The name and address of the person or entity violating this ordinance.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The Ordinance violated.
6. The name and authority of the Animal Control Officer.
7. The procedure for the person or entity to follow in order to pay the non-contest civil penalty or to contest the citation or, if the person is receiving his or her third or more citation, to appear in County Court.
8. The maximum applicable civil penalty if the person or entity elects to contest the citation or is required to appear in County Court.
9. The applicable civil penalty if the person or entity has not previously received two or more citations and elects not to contest the citation (the non-contest civil penalty).
10. A conspicuous statement that if the person or entity is eligible for, but fails to pay, the non-contest civil penalty within 15 days, or fails to timely appear in court to contest the citation, such person shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person or entity for an amount up to \$500.00.
11. A conspicuous statement that if the person is required to appear in court as mandated by Section 4 of the ordinance (which requires a mandatory court appearance for the third citation and each citation thereafter that a person receives), such person does not have the option of paying a fine in lieu of appearing in court.

Section 6. If a person or entity fails to timely pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required by Section 4 of this ordinance, the court may issue an order to show cause upon the request of the Board of County Commissioners of St. Johns County, which request for each such person and entity

is hereby made. This order shall require such persons or entities to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court.

Section 7. The amounts of the penalties imposed by Section 4 hereof and the amount of time allowed for their payment may be changed and modified by future resolution(s) of the Board.

Section 8.

A. In the event any dog or cat owner cannot be conveniently located to take custody of a loose dog or cat, the animal may be caught by the Animal Control Officer and impounded at the St. Augustine Humane Society Shelter or other shelter(s) designated by resolution(s) of the County. All costs of confinement shall be paid by the animal's owner as hereinafter provided.

B. The Owner of any dog or cat seized and impounded or confined pursuant to this Ordinance, shall be entitled to receive the animal but only upon occurrence of each of the following:

1. a) Payment to the County of a \$5.00 Impoundment Fee for the first impoundment within one year.
- b) Payment to the County of a \$10.00 Impoundment Fee for the second impoundment within one year.
- c) Payment to the County of a \$15.00 Impoundment Fee for the third impoundment within one year.
2. Payment to the County of \$5.00 Confinement Fees for each 24 hour period and fraction thereof that the animal is confined at the St. Augustine Humane Society Shelter or other shelter designed by the County.
3. Payment to the Humane Society of St. Augustine (the "Humane Society") of all reasonable veterinary fees paid by the Humane Society for the benefit of the impounded animal.

C. The Animal Control Officer, or other such person as he may designate, shall, within 24 hours, or during the next business day after seizure and impoundment, make a reasonable attempt to notify the owner of the animal's impoundment.

D. Any dog or cat impounded by the Animal Control Officer or at his direction that is not claimed by, and returned to, its owner within five (5) days of its impoundment may be destroyed or otherwise disposed of without compensation to the Owner.

E. The fees, payments, and manner of payment required by this Section 8 may be modified by future resolution(s) of the Board of County Commissioners of St. Johns County, Florida.

F. The County Administrator, or his designee, is authorized to establish a reasonable procedure with the Humane Society to facilitate and account for the above-described payments.

Section 9. If any portion of this Ordinance is declared unconstitutional or otherwise illegal, or if its applicability to any person or circumstances is held invalid, the validity of the remainder of this Ordinance and the applicability of it to other persons and circumstances shall not be affected thereby.

Section 10. This Ordinance is separate and distinct from St. Johns County Ordinance Number 79-1, as amended, and shall not reduce, omit or otherwise effect or modify the terms, requirements or prohibitions of St. Johns County Ordinance Number 79-1, as amended.

Section 11. St. Johns County dog or cat control Ordinance 84-61, as amended, is repealed.

Section 12. This Ordinance shall become effective upon the later of (i) receipt of official acknowledgment from the Department of State that this Ordinance has been filed and (ii) February 1, 1992.

PASSED by the Board of County Commissioners of St. Johns
County, Florida this 14th day of January, 1992.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: Fred Billhoff
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: Carl Bud Markel
Clerk

Effective Date: January 30, 1992

The St. Augustine Record

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared _____
SHERRY L. RAUCH

_____ who on oath says that she is
ACCOUNTING CLERK

_____ of the St. Augustine Record, a
daily newspaper published at St. Augustine in St. Johns County, Florida: that

the attached copy of advertisement, being a _____
NOTICE OF INTENT TO CONSIDER ENACTMENT

_____ in the matter of _____
Ordinance No. 88-42

_____ in the _____ Court,
was published in said newspaper in the issues of _____

December 16, 1991

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper has heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sherry L. Rauch

Sworn to and subscribed before me Zoe Ann Johns
this 16th day of December

A.D. 19 91

Zoe Ann Johns
(SEAL) 8/22/93 Notary Public

COPY OF ADVERTISEMENT

NOTICE OF INTENT TO CONSIDER ENACTMENT OF ORDINANCE
NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AT ITS REGULAR MEETING ON TUESDAY, JANUARY 14, 1992 AT 9:00 A.M. IN THE COUNTY AUDITORIUM, COUNTY ADMINISTRATION BUILDING, 4020 LEWIS SPEEDWAY (COUNTY ROAD 16-A) AND U.S. #1 NORTH, ST. AUGUSTINE, FLORIDA, WILL HOLD A PUBLIC HEARING TO CONSIDER THE PASSAGE OF THE FOLLOWING ORDINANCE:

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REPEALING ST. JOHNS COUNTY ORDINANCE 88-42 AS PREVIOUSLY AMENDED, WHICH IS THE ORDINANCE MAKING IT UNLAWFUL FOR ANY OWNER, OR PERSON OR ENTITY IN CHARGE OF A DOG OR CAT TO ALLOW THE DOG OR CAT TO ENTER UPON ANY OF CERTAIN DESCRIBED PROPERTIES LOCATED WITHIN THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY, FLORIDA; TO WITHHOLD PUBLIC OR PRIVATE ROADS, DEDICATED ROADS, PUBLIC PROPERTY, AND THE PRIVATE PROPERTY OF OTHER PERSONS OR ENTITIES, UNLESS SUCH DOG OR CAT IS WEARING A COLLAR AND IN THE CASE OF DOGS SUCH DOG IS IN THE ACTUAL PHYSICAL CONTROL OF A PERSON BY LEASH, CORD, CHAIN OR OTHER RESTRAINT; AND, IN THE CASE OF PRIVATE PROPERTY, UNLESS THE ENTRY OF THE DOG OR CAT IS WITH THE PERMISSION OF THE PROPERTY OWNER OR LESSEE; REQUIRING THAT THE COLLAR CONTAIN OR HAVE ATTACHED THERETO THE DOG OR CAT OWNER'S NAME AND CURRENT TELEPHONE NUMBER; PROVIDING DEFINITIONS; PROVIDING PROCEDURES; PROVIDING FOR THE SEIZURE, IMPOUNDMENT AND RETURN OR DISPOSAL OF DOGS AND CATS IN VIOLATION; PROVIDING PENALTIES AND IMPOUNDMENT FEES; PROVIDING FOR SEVERABILITY; REPEALING PRIOR DOG ORDINANCES PERTAINING TO NAMED SUBDIVISIONS; THIS ORDINANCE ALSO AMENDS

COUNTY ORDINANCE 88-42 AS PREVIOUSLY AMENDED BY CHANGING THE DEFINITION AND QUALIFICATIONS OF ANIMAL CONTROL OFFICER; MODIFYING THE PENALTY PROCEDURE AND CITATION PROVISIONS; CHANGING THE IMPOUNDMENT FEES AND THE PROVISIONS FOR THEIR PAYMENT; PROVIDING FOR CERTAIN CHANGES TO THIS ORDINANCE BY RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

The proposed Ordinance is on file in the office of the Clerk of the Circuit Court, St. Johns County, Florida, St. Johns County Administration Building, Lewis Speedway, and may be examined by parties interested prior to said public hearing.

All parties having any interest in said Ordinance will be afforded an opportunity to be heard at the public hearing.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the hearing, he will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
Carl "Bud" Markel, Its Clerk
Patricia DeGonzo, Deputy Clerk
L317 Dec. 16, 1991



FLORIDA DEPARTMENT OF STATE
Jim Smith
Secretary of State
DIVISION OF ELECTIONS
Room 2002, The Capitol, Tallahassee, Florida 32399-0250
(904) 488-8427

January 24, 1992

RECEIVED
ELECTIONS

92 JAN 30 AM 10:47

RECEIVED

Honorable Carl "Bud" Markel
Clerk of the Circuit Court
St. Johns County Courthouse
Post Office Drawer 300
St. Augustine, Florida 32085-0300

Attention: Irma Pasetti, Deputy Clerk

Dear Mr. Markel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of January 16, 1992, and certified copies of St. Johns County Ordinance Numbers 92-1, 92-2 and 92-3, which were received and filed in this office on January 24, 1992.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb