

## ANIMAL CONTROL ORDINANCE

### ORDINANCE 2015-25

**AN ORDINANCE AMENDING ORDINANCE NO. 2004-58, AS AMENDED, WHICH ESTABLISHED ANIMAL CONTROL REGULATIONS FOR THE UNINCORPORATED AREAS AND THE INCORPORATED AREAS PURSUANT TO INTERLOCAL AGREEMENT OF NASSAU COUNTY, FLORIDA; SPECIFICALLY AMENDING SECTION 23, ADDING CIVIL PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Nassau County, Florida, has found it necessary to amend the Animal Control Ordinance to include civil penalties for violators.

NOW, THEREFORE, BE IT ORDAINED this 14th day of December, 2015, by the Board of County Commissioners of Nassau County, Florida, amending Ordinance No. 2004-58, as follows:

#### **SECTION 23. CIVIL CITATIONS AND PENALTIES**

An animal control officer is authorized to issue a citation to a person when the animal control officer has probable cause, based upon direct evidence, observation, or a sworn affidavit from a witness, to believe that the person has committed a civil infraction in violation of this chapter and the county court will hear the charge. An animal control officer based upon the individual circumstances and available facts (including any known history), prior to issuing a citation, may issue a warning citation containing an explanation of the circumstances and recommended corrective action and establishing a reasonable time period in which the person must correct the violation. If a warning citation is issued, the animal control officer will perform a follow-up investigation to determine whether the situation still exists.

Whenever possible, a citation issued by an animal control officer shall be hand delivered to the violator (or the violator's representative having custodial responsibilities at the location of

the violation). If the animal control officer is unable to hand deliver the citation, the animal control department shall send a letter by certified mail to the violator. Failure to accept delivery of the certified letter shall be considered a willful refusal to sign for and accept issuance of the citation.

After issuing the citation, the issuing officer shall deposit the original and one copy of the citation with the County Court in and for Nassau County.

A citation issued by an animal control officer shall contain:

1. The date and time of issuance;
2. The name and address of the person to whom the citation is issued.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The ordinance code section violated.
6. The name and authority of the animal control officer.
7. The procedure for the person to follow for payment of the civil fine, to contest the citation or to appear in court as required.
8. The applicable civil fine if the person elects to contest the citation.
9. The applicable civil fine if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil fine within the time allowed or fails to appear in County Court to contest the citation, the person shall be deemed to have waived his/her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil fine.
11. A conspicuous statement that if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

Unless cited for a violation for which court appearance is mandatory, a person cited for a civil infraction shall, within ten days of the date of receipt of the citation, either:

1. Pay the civil fine to the Clerk of Court; or
2. Obtain a court date from the officer of the clerk of the county court to appeal the citation.

If a person fails to pay the civil fine within the time prescribed in the citation or fails to obtain a court date, or having obtained a court date, fails to appear in court to contest the citation, the person shall be deemed to have waived the right to contest the citation. In such case, final judgment may be entered against the person in the maximum civil fine allowed, which shall be payable within 60 days from the date of execution of the final judgment.

Persons cited for the following must appear in County Court:

1. Violators of this section, resulting in the unprovoked biting, attacking or wounding of a person or domestic animal;
2. Violations of this section, resulting in the destruction or loss of personal property;
3. Second or subsequent violations of the animal cruelty or neglect provisions of Section 14 of this ordinance.
4. Violations resulting from the issuance of a third or subsequent citation to a person.

For citations involving the above listed mandatory court appearance violations, the citation shall specify that the court appearance is mandatory. If a person so cited fails to appear within the time prescribed in the citation to obtain a court date or having obtained a court date, fails to appear in court, a default final judgment may be entered against the person in the maximum civil fine payable within 60 days from the date of execution of final judgment.

Per Florida Statute Section 828.27, a violation of any provision of this Ordinance by any person will be considered a civil infraction with a maximum civil penalty not to exceed \$500.00.

Whenever a provision of this ordinance does not establish a specific fine for failing to do any act or thing required or for doing any act or thing prohibited, in addition to court costs, the civil fine for such civil infraction, shall be not less than the amount designated in the fine schedule adopted by separate resolution of the Board of County Commissioners. Unless otherwise specifically provided in this ordinance, each section and subsection is considered a separate violation.

Minimum penalties are hereby established considering the following:

1. The gravity of the violation.
2. The potential harm to the public.
3. The danger to the animal or other animals.
4. The potential adverse effect(s) on animals or people.
5. The previous violations.
6. The deterrent effect for future violations or violators.

A person who has committed a civil infraction, but does not contest the citation and pays the infraction in a timely manner, shall be assessed an uncontested fine amount as established by separate resolution of the Board of County Commissioners.

A civil penalty of less than the maximum civil penalty may be issued if the person who has committed the civil infraction does not contest the citation.

Any person who willfully refuses to sign and accept a citation issued by an officer shall be in violation of F.S. §828.27(5) and this ordinance and is guilty of a misdemeanor of the second degree punishable as provided in Florida Statute §775.082 or §775.083.

A five dollar (\$5.00) surcharge shall be charged and collected upon each civil fine imposed for each violation of this section, as authorized by Florida Statutes §828.27(4)(b). If the court adjudicates the violation as suspended or guilty with no fine, the surcharge shall still be charged and collected upon that violation, even if court costs are not assessed. The Clerk of the Court shall deposit the proceeds from such surcharge into a separate account for animal control and the funds shall be used only to pay the costs associated with training for animal control officers as required by state law.

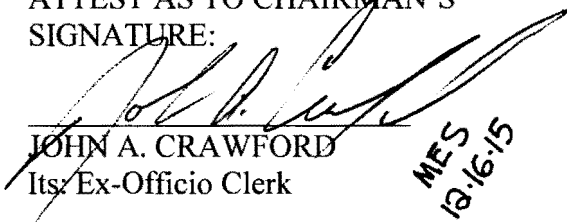
**SECTION 26. EFFECTIVE DATE**

This Ordinance shall become effective upon its being filed in the Office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

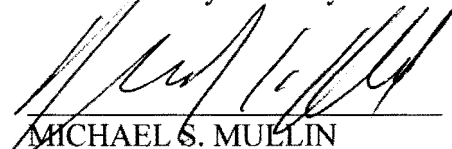
  
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PAT EDWARDS  
Its: Chairman

ATTEST AS TO CHAIRMAN'S  
SIGNATURE:

  
\_\_\_\_\_  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

MES  
12-16-15

Approved as to form by the  
Nassau County Attorney:

  
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MICHAEL S. MULLIN