

HOLMES COUNTY ORDINANCE NO. 10-02

AN ORDINANCE AMENDING HOLMES COUNTY ORDINANCE NO. 86-04: AN ORDINANCE RELATING TO RABIES AND ANIMAL CONTROL; PROVIDING DEFINITIONS: RELATING TO DECLARED RABIES OUTBREAKS: REPORTING OF ANIMAL BITES AND QUARANTINE: PROVIDING FOR RESTRAINT PROVISIONS: ESTABLISHMENT OF ENFORCEMENT AND PENALTIES: PROVIDING FOR SEVERABILITY IN THE EVENT THAT ANY PART IS FOUND INVALID, UNLAWFUL OR UNCONSTITUTIONAL: AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: Section 125.01, Florida Statutes, authorizes the Board of County Commissioners to provide and maintain for the citizens of said county, standards which insure their health, welfare, and well-being.

WHEREAS: The Board of County Commissioners of Holmes County recognize that the public health and safety of the residents of the county will best be served by establishing Holmes County's Rabies and Animal Control Ordinance.

WHEREAS: Section 828.27, Florida Statutes, authorizes the Board of County Commissioners of Holmes County, Florida, to enact Ordinances relating to animal control.

Be it, therefore, ordained by the Board of County Commissioners of Holmes County, Florida.

TITLE

This ordinance shall be known as the "Holmes County Rabies and Animal Control Ordinance".

SECTION I - DEFINITIONS

As used in this ordinance the following terms shall mean:

Animal: Any domestic vertebrate creature

Dog: Any domestic member of the canine species

Cat: Any domestic member of the feline species

Owner or Person Responsible: Any person, partnership, corporation, or other legal entity, owning or harboring one or more dogs and/or cats. A dog and/or cat will be deemed to be harbored if it is fed or sheltered for five (5) consecutive days.

Officer: Any law enforcement officer defined in Section 943.10, Florida Statutes, or any animal control officer.

Animal Control Officer: Any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations. An animal control officer is not authorized to bear arms or make arrests; however, such officer may carry a device to chemically subdue or tranquilize an animal, provided that such officer has successfully completed a minimum of sixteen (16) hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide or the American Humane Association.

PUBLIC NUISANCE: Any dog and/or cat which:

1. Molests and/or harasses person(s) or passing vehicles on public property, or molests and/or harasses person(s) or passing vehicles on the property of a person other than the Owner or Person Responsible for the offending dog and/or cat.

2. Attacks other animals or person(s) on public property or on the private property of a person other than the Owner or Person Responsible for the offending dog and/or cat.

3. Damages public property or private property of a person other than the Owner or Person Responsible for the offending dog and/or cat.

4. Repeatedly runs at large on public property or private property of a person other than the Owner or Person Responsible for the offending dog and/or cat.

5. Barks, whines, howls or makes noises in an excessive, continuous or untimely fashion.

6. Creates noxious and offensive odors that can be detected on public property or private property of a person other than the Owner or Person Responsible for the offending dog and/or cat.

VETERINARY HOSPITAL: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries to animals.

OUTBREAK: When three (3) or more dogs, cats, or wild animals are found to have rabies by Laboratory analysis within Holmes County during a three (3) month period of time.

CITATION: a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of this duly enacted Ordinance and that the County Court will hear the charge. Any citation issued relating to this Ordinance shall adhere to the guidelines as set forth in Section 828.27(1)(f), Florida Statutes, and must contain:

1. The date and time of issuance.
2. The name and address of the person.
3. That date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The number of this Ordinance.
6. The name and authority of the officer.
7. The procedure for the person to follow in order to pay the civil penalty, or to contest the citation, or to appear in court.
8. The applicable civil penalty if the person elects to contest the citation.
9. The applicable civil penalty if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, it shall be deemed a waiver of the right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

SECTION II - VACCINATION OF DOGS AND CATS AGAINST RABIES

(1) Every Owner or Person Responsible for a dog and/or cat over the age of six (6) months within Holmes County shall have such dog and/or cat vaccinated against rabies. Vaccination shall be with a vaccine licensed by the U.S. Department of Agriculture.

(2) In cases involving bites or other exposure by dogs or cats to humans or bites or other exposure to dogs or cats by a known rabid animal, only current vaccination of the dog or cat by a licensed veterinarian or his agent will be honored.

(3) No dog and/or cat need to be vaccinated if a licensed veterinarian has examined the dog and/or cat and certified that at such time vaccination could endanger its health because of age, infirmity, debility, illness or other medical consideration. The dog and/or cat shall be vaccinated against rabies as soon as its health permits.

(4) The cost of the rabies vaccine shall be born by the Owner or Person Responsible for the dog and/or cat.

SECTION III - DECLARED RABIES OUTBREAKS

Whenever there is an outbreak of rabies, the Holmes County Health Department, may declare an immediate quarantine for such a period of time as conditions warrant and for a prescribed area within the county.

Whenever a quarantine has been declared, no Owner or Person Responsible for a dog and/or cat shall permit such a dog and/or cat to be or run at large. Any dog and/or cat at large during a quarantine shall be impounded by the Holmes County Sheriff's Department or any other County designated Animal Control Officer, provided however, that if capture and impoundment of such a dog and/or cat cannot be affected safely, and the dog and/or cat is deemed to be a definite and immediate threat to the public health and safety, the Holmes County Sheriff's Department or any other County designated Animal Control Officer may slay such a dog and/or cat, at its sole discretion and will not be held liable.

SECTION IV - REPORTING OF ANIMAL BITES AND QUARANTINE

Any person having knowledge of an instance in which a person is bitten or otherwise wounded by a dog, cat, or other animal, domestic or wild, or an instance in which a person has been in contact with or handled a known or suspected rabid animal shall report the incident within twenty-four (24) hours to the Holmes County Health Department.

The Holmes County Health Department is hereby authorized to declare an immediate quarantine for any dog, cat or other animal, domestic or wild, that has bitten or injured any person or, which having been suspected of being a rabid animal, was in contact with or handled by any person. Such a quarantine shall be authorized for the protection of the public health and shall be at the expense of the Owner or Person Responsible for the at-issue animal, if known. Non-compliance with a quarantine mandated by the Holmes County Health Department shall constitute a violation of this Ordinance and may also constitute a violation of Florida law.

SECTION V - RESTRAINT

(1) No Owner or Person Responsible shall fail to exercise proper care and control of his or her dogs and/or cats to prevent them from becoming a public nuisance.

(2) Any animal classified as vicious by Judicial Authority shall be either (1) confined permanently to the premises of the Owner or Person Responsible, or (2) humanely

destroyed. This Section shall not apply to dogs and/or cats defending an owner's property, or governmental police dogs acting in their official capacity. The Owner or Person Responsible shall post and keep posted in a conspicuous place on the premises where the animal is kept, a sign with a warning about the dangerous animal's presence written thereon in prominent letters.

(3) A property owner or tenant may restrain in a humane manner any dog and/or cat which is on his or her property in violation of this ordinance, which is not wearing a collar with a current rabies vaccination tag. When such restraint is made, the property owner or tenant shall immediately notify the Holmes County Sheriff's Department or any other County designated Animal Control Officer. The property owner or tenant shall treat the dog and/or cat humanely and exercise due care to insure the dog and/or cat's safety and well-being.

(4) Every female dog and/or cat in heat (during estrus) shall be confined by its Owner or Person Responsible to a building or secure enclosure in such a manner that such female dog and/or cat cannot come into contact with another dog and/or cat except for planned breeding purposes.

(5) It shall be unlawful, and a violation of this Ordinance, for any person to abandon any animal he or she is the Owner or Person Responsible for.

SECTION VI - ENFORCEMENT

(1) The civil and criminal provisions of this ordinance shall be enforced by those persons or agencies designated by county authority, including the Holmes County Sheriff's Department or any other County designated Animal Control Officer. It shall be a violation of this ordinance, and Florida law, to interfere with any officer so authorized to enforce the provisions of this Ordinance, in the performance of their official duties.

SECTION VII - PENALTIES

(1) Any Owner or Person Responsible for an animal within Holmes County shall be issued a citation upon a finding of probable cause by an officer that the Owner or Person Responsible for an animal has committed an act in violation of this Ordinance.

A. Upon the first citation issued to an Owner or Person Responsible for an offending animal, within a twelve (12) month period of time, the Owner or Person Responsible shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of seventy-five dollars (\$75.00), if the Owner or Person Responsible does not contest the citation. If the Owner or Person Responsible contests the first citation in court and is found in violation of this Ordinance, the Owner or Person Responsible shall pay a civil penalty in the amount of one hundred fifty dollars (\$150.00).

B. Upon the second citation issued to an Owner or Person Responsible for an offending animal, within a twelve (12) month period of time, regardless of which of the Owner or Person Responsible's animals are involved, the Owner or Person Responsible shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of one hundred fifty dollars (\$150.00), if the Owner or Person Responsible does not contest the citation. If the Owner or Person Responsible contests the second citation in court and is found in violation of this Ordinance, the Owner or Person Responsible shall pay a civil penalty in the amount of three hundred dollars (\$300.00).

C. Upon the third citation issued to an Owner or Person Responsible for an offending animal, within a twelve (12) month period of time, regardless of which of the Owner or Person Responsible's animals are involved, the Owner or Person Responsible shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of two hundred fifty dollars (\$250.00), if the Owner or Person Responsible does not contest the citation. If the Owner or Person Responsible contests the third citation in court and is found in violation of this Ordinance, the Owner or Person Responsible shall pay a civil penalty in the amount of five hundred dollars (\$500.00).

D. Upon the fourth citation issued to an Owner or Person Responsible for an offending animal, within a twelve (12) month period of time, regardless of which of the Owner or Person Responsible's animals are involved, the Owner or Person Responsible shall be deemed guilty of a second degree misdemeanor and could face penalties of up to a five hundred dollar (\$500.00) fine and sixty (60) days in the Holmes County Jail Work Camp.

(2) Any Owner or Person Responsible that has been issued a citation pursuant to this Ordinance shall have the option to contest the citation in a court of law.

(3) If an Owner or Person Responsible fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the Board of County Commissioners for Holmes County, Florida. This order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court.

(4) All civil penalties collected pursuant to this Ordinance shall be deposited in the County's animal control fund and used to support the costs of the County's animal control program. All funds collected shall be received on a daily basis by the County Clerk who shall maintain appropriate accounting records for the County's animal control fund.

(5) Pursuant to Section 828.27(5), Florida Statutes, any person who willfully refuses to sign and accept a citation issued by an officer pursuant to this Ordinance shall be deemed guilty of a second degree misdemeanor and could face penalties of up to a five hundred dollar (\$500.00) fine and sixty (60) days in the Holmes County Jail Work Camp.

SECTION VIII - CONFLICTING ORDINANCES

(1) This ordinance supercedes all other dog and/or cat control ordinances of the County of Holmes.

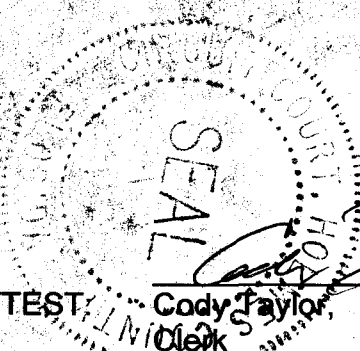
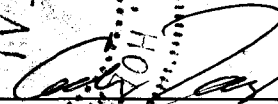
SECTION IX - SEVERABILITY CLAUSE


(1) If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

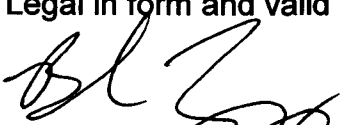
SECTION X - EFFECTIVE DATE

(1) This Ordinance shall take effect immediately upon its passage as provided by law.

PASSED and ORDAINED by the Board of County Commissioners of Holmes County, Florida, on this 25th day of May, 2010, after due and proper public notice and meeting, by a vote of five (5) to zero (0).

 **SEAL**

ATTEST: Cody Taylor,
Clerk

HOLMES COUNTY BOARD OF COUNTY COMMISSIONERS

BY: Monty Merchant
Monty Merchant,
Chairman

Legal in form and valid if enacted


Brandon J. Young, Esq.
Attorney, Holmes County