

EFFECTIVE DATE: _____

ORDINANCE 08-09-83

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, ADDING A NEW ARTICLE III TO CHAPTER 4.5 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA PERTAINING TO ANIMALS IN COUNTY POSSESSION; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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2009

WHEREAS, the Board of County Commissioners of Highlands County, Florida, deems it necessary to adopt a procedure for dealing with livestock of which the County has come into possession; and

WHEREAS, the Board of County Commissioners deems it necessary for the purpose of promotion, protection and improvement of the public health, safety, comfort, good order, appearance, convenience, and general welfare of the County to add such procedure as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, after due notice and public hearing that:

SECTION 1: AMENDMENT AND ADOPTION. Chapter 4.5 of the Code of Ordinances, Highlands County, Florida is amended by adding thereto a new Article III, which is adopted to read as follows:

ARTICLE III. ANIMALS IN COUNTY POSSESSION

Section 4.5-31. Definitions.

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

Animals in county possession shall include animals taken by the county, other than animals owned by the county and animals that are subject to the provisions of Chapter 588, Florida Statutes.

Appropriate Organization shall include any county supported organization and any 501(c) non-profit organization.

Owner shall include any person, association, firm, or corporation, natural or artificial, who owns or harbors, keeps or maintains any animal.

Board shall mean the Board of County Commissioners of Highlands County, Florida.

Section 4.5-32. County possession of livestock; authorization.

It shall be the duty of Highlands County Animal Control to take up, confine, hold, and possess any animal, to be disposed of as provided in this Article.

Section 4.5-33. Disposition of livestock in county possession.

(a) Upon taking possession of any animal, Highlands County Animal Control shall serve written notice upon the owner, advising such owner of the location or place where the animal is being held in county

possession, of the amount due by reason of such possession, and that unless such animal be redeemed within three (3) days from the date of notice that the animal shall be offered for sale or donated to an appropriate organization.

(b) In the event the owner of such animal is unknown or cannot be found, service upon the owner shall be obtained by once publishing a notice in a newspaper of general circulation in the county (Sundays and holidays excluded). Such notice shall be in substantially the following form:

"To Whom It May Concern:

You are hereby notified that the following described animal (giving full and accurate description of same, including marks and brands) is now in County possession at (giving location where animal is in possession) and the amount due by reason of such possession is _____ dollars. The above described animal will, unless redeemed within three (3) days from date of this notice, be offered for sale at public auction to the highest and best bidder for cash, or donated to an appropriate organization.

(Date)

(Animal Control)

of Highlands County, Florida"

(c) Unless the animal in county possession is redeemed within three (3) days from the date of notice, Highlands County Animal Control shall forthwith give notice of sale or donation thereof which shall be held not less than five (5) days nor more than ten (10) days (excluding Sundays and holidays) from the first publication of the notice of sale or donation. Said notice of sale or donation shall be published in a newspaper of general circulation in Highlands County (excluding Sundays and holidays) and by posting a copy of such notice at the courthouse door. Such notice of sale shall be in substantially the following form:

"(Name of owner, if known, otherwise 'To Whom It May Concern') you are hereby notified that Highlands County Animal Control will offer for sale and sell at public sale to the highest and best bidder for cash, or donate to an appropriate organization, the following described animal (giving full and accurate description of each animal) at _____ o'clock, _____ m. (the hour of sale to be between 11 a.m. and 2 p.m. Eastern Standard Time) on the _____ day of _____ at the following place _____ (which place shall be where the animal is in possession or at the place provided by the Board of County Commissioners for the taking up and keeping of such animal) to satisfy a claim in the sum of _____ for fees, expenses for feeding and care and costs hereof.

(Date)

(Animal Control)

of Highlands County, Florida"

Section 4.5-34. County possession of animals; fees.

The fees allowed for county possession, serving notice, care and feeding, advertising, and disposing of animals in county possession, shall be determined by Highlands County Animal Control.

Section 4.5-35. Failure to secure purchaser or insufficient funds to defray certain costs.

If there be no bidder for such animal at the sale in compliance with this Article, and Highlands County Animal Control has been unable to locate the owner through the notice procedures described in section 4.5-33, Highlands County Animal Control shall sell the animal at the nearest auction yard or donate the animal to an appropriate organization. The proceeds from the sale shall be used to reimburse the expenses incurred in capturing, maintaining, and selling the animal and in attempting to locate the owner. Any money remaining after all expenses are paid shall be given to the owner of the animal, if known.

Section 4.5-36. Report of sale and disposition of proceeds.

(a) Highlands County Animal Control, upon making a sale or other disposal as herein provided, shall forthwith make a written return thereof to the Clerk of the Court Finance Office, with a full and accurate description of the animal sold or disposed of, to whom, and the sale price thereof, which report shall be filed by said Clerk.

(b) At the time of making the return Highlands County Animal Control shall pay over to the Clerk of the Court Finance Office the entire proceeds of the sale for deposit into the Highlands County Animal Control Cost Center.

(c) The Clerk of the Court Finance Office shall pay all costs and fees as allowed in this Article. If there be any balance remaining, such balance shall be paid to the owner of such livestock, provided the owner shall make satisfactory proof of ownership to the Board within ninety (90) days from the date Highlands County Animal Control reports the sale or donation. If proof of ownership, as aforesaid, be not made within the time mentioned, the Clerk shall pay such proceeds into the Highlands County Animal Control Revenues. The Clerk shall keep a permanent record of all sales, disbursements, and distributions made under this Article.

(d) If the amount realized from the sale or other disposition of the animal is insufficient to pay all fees, costs and expenses as provided in this Article, the deficit shall be paid by the Highlands County Animal Control Revenues.

Section 4.5-37. Board and transportation of animals in county possession.

Any animal taken up and in possession hereunder until the same shall be sold, donated, redeemed, or otherwise disposed of, shall be held in an appropriate location as designated by Highlands County Animal Control. Appropriate transportation for all animals in county possession shall be provided by the Board.

Section 4.5-38. Care of animals in County possession.

Highlands County Animal Control shall provide feed for the animals in County possession and see that such animals shall have continuous access to water and are fed not less than once a day and that all milk cows and milk goats producing milk are milked twice a day. Highlands County Animal Control shall employ poundmasters, guards, or other persons as may be necessary to protect, feed, care for, and have custody of, the animals in county possession and shall be entitled to the fees herein allowed for such feed and care.

Section 4.5-39. Right of Owner.

The owner of any animal in county possession shall have the right at any time before sale or donation thereof to redeem the same by paying to Highlands County Animal Control all costs and expenses of possession, including fees, keeping charges, advertising, or other costs incurred therewith which sum shall be deposited by Highlands County Animal Control with the Clerk of the Court Finance Office who shall pay all fees and costs as

allowed in this Article. In the event there is a dispute as to the amount of such costs and expenses, the owner shall pay a cash deposit to the Board, in an amount to be determined by the Board, but not exceeding the fair cash value of such animal, conditioned to pay such costs and expenses; and if the owner does not pay that deposit within the time allowed by the Board, the county may proceed with the sale or donation of the animal as otherwise provided in this Article. Within ten (10) days after paying the deposit, the owner shall institute suit in equity to have the costs and expenses adjudicated by a court of equity or referred to a jury if requested by either party to such suit. If the owner does not institute suit within that ten (10) day period, the Clerk shall pay the deposit into the Highlands County Animal Control Revenues.

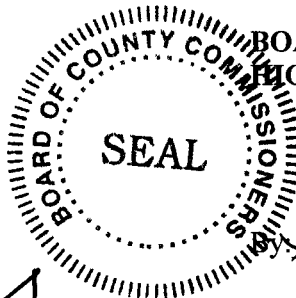
SECTION 2: CONFLICT. Any ordinance or part thereof in conflict with this ordinance or any part hereof is hereby repealed to the extent of the conflict.

SECTION 3: SEVERABILITY. The subsections, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, or section of this ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and subsections, and sections of this ordinance.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Department of State.

DONE AND ADOPTED this 16th day of JUNE, 2009.

(SEAL)



**BOARD OF COUNTY COMMISSIONERS
HIGHLANDS COUNTY, FLORIDA**


Barbara A. Stewart, Chairman

ATTEST:


Robert W. Germaine, Clerk