



STATE OF TEXAS
COUNTY OF SMITH

§
§
§

IN THE COMMISSIONERS COURT

SMITH COUNTY ANIMAL CONTROL ORDINANCE

Pursuant to the authority of Title 10 (entitled *Health and Safety of Animals*) of the Texas Health and Safety Code, the Smith County Commissioners Court adopts the following Ordinance to protect the public health, safety, and welfare in the unincorporated areas of Smith County.

I. DEFINITIONS

- A. "Dog" means any member of the canine familiaris family.
- B. "Animal" means any mammal, domesticated or wild. (TEX. ADMIN. CODE § 169.22)
- C. "Animal Control Authority," means any peace officer of the State of Texas, animal control officer, or other entity that the Commissioners Court considers appropriate. Among other duties, the Smith County Fire Marshal shall enforce the provisions of this Ordinance by investigating complaints as to animal nuisances, issuing citations when deemed appropriate, and shall impound animals when appropriate.
- D. "Currently Vaccinated" (reference TEX. ADMIN. CODE § 169.22) shall mean vaccinated and satisfying the following criteria:
- (1) the animal must have been vaccinated against rabies according to the label recommendations of a U.S. Department of Agriculture (USDA) approved vaccine;
 - (2) at least 30 days have elapsed since the initial vaccination; and
 - (3) the time elapsed since the most recent vaccination has not exceeded the label recommendations of the vaccine.
- E. "Owner" means a person, or persons, who harbor, shelter, keep, manage, possess, or has any interest in any dog.
- F. "Dangerous dog" means any dog that:
- (1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

- (2) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person. (TEX. HEALTH AND SAFETY CODE § 822.041(2)).
- G. "Impounding Facility" means the Smith County Animal Impound Facility, or any other premises designated by the Smith County Commissioners Court, as a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals. (TEX. HEALTH AND SAFETY CODE, § 823.001(1)).
- H. "Rabies Authority" means the Smith County Fire Marshal's Office.
- I. "Secure" means a restraint or enclosure that is reasonably designed to confine a dog, taking into account the size, strength, agility, age, and history of the dog.
- J. "Vaccinated" means properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed to practice in the State of Texas.

II. ANIMAL CONTROL OFFICERS

- A. Animal control officers are those officers specifically hired to enforce this Ordinance. The sole responsibility of an animal control officer is to enforce this Ordinance.
- B. Animal control officers shall wear distinctive uniforms as required by the Fire Marshal's office.
- C. Animal control officers shall drive a marked vehicle.
- D. Animal control officers must either be certified animal control officers when they are hired, or shall become certified animal control officers within 12 months of their date of hire.
- E. The Fire Marshal shall have the discretion to conduct patrols in the enforcement of this Ordinance. In general, the enforcement of the Ordinance will be complaint driven.
- F. The Fire Marshal should respond to complaints regarding dogs which fall under this Ordinance. The Fire Marshal shall have the discretion to respond to calls under this Ordinance that do not pertain to dogs.
- G. The order of response, if any, to calls under the Ordinance, is discretionary with the Fire Marshal. With respect to animal control officers, final approval of decisions pertaining to response to calls shall be made by the Fire Marshal.
- H. All provisions of this Ordinance shall be enforced by the Fire Marshal in the exercise of his discretion, with final approval of any decisions by an animal control officer to be made by the Fire Marshal.
- I. No provision in this Ordinance shall restrict the ability of an Animal Control Officer, acting pursuant to the discretion of the Fire Marshal, to enforce provisions within Smith County.

- J. All issues not specifically addressed in this Ordinance are discretionary with the Fire Marshal, in compliance with all applicable laws, with final approval of any decisions by an animal control officer to be made by the Fire Marshal.
- K. The Smith County Fire Marshal is designated as the Local Rabies Control Authority in accordance with Texas Health and Safety Code § 826.017, with all duties and responsibilities thereunder.

III. RABIES CONTROL

- A. **Vaccinations:** Every owner of a dog four (4) months of age or older shall have such dog(s) vaccinated against rabies, and shall vaccinate each dog every three years thereafter, in accordance with state law regarding the frequency of vaccinations. Any person moving into Smith County from a location outside of Smith County shall comply with this Ordinance within (30) days after having moved into Smith County. If a dog has inflicted a bite on any person, then the owner of such dog shall report the bite to the rabies authority, and no rabies vaccine shall be administered until after a ten-day observation period (TEX. ADMIN. CODE, TITLE 25, PART 1, § 169.25).
- B. **Certificate of Vaccination:** Upon Vaccination, a veterinarian shall execute and furnish to the owner of a dog as evidence of vaccination, a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy of such certificate. Such certificate shall contain the following information:
 - (1) The name, address, and telephone number of the owner of the vaccinated dog;
 - (2) The date of the vaccination;
 - (3) The type of rabies vaccine used, including producer, serial number, and expiration date;
 - (4) The year and number of rabies tag issued;
 - (5) The predominate breed, approximate age, color, size, and sex including neutering of the vaccinated dog; and
 - (6) The signature of the administering veterinarian.

(TEX. ADMIN. CODE, TITLE 25, PART 1, § 169.29)
- C. **Rabies Tags:** Concurrent with the issuance and delivery of the certificate of vaccination referred to in section III(B), a veterinarian shall issue a metal tag serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and the veterinarian's address. The owner shall cause a collar or harness with the attached metal vaccination tag to be worn by the vaccinated dog at all times.
- D. **Duplicate Tags:** In the event of loss or destruction of the original tag provided in III(C), the owner of a dog shall obtain a duplicate tag. Vaccination certificates and tags shall be valid only for the dog for which it was originally issued.

- E. **Furnishing Proof of Vaccination:** It shall be a violation of this Ordinance for any person who owns or harbors a vaccinated dog to fail or refuse to exhibit his or her copy of the certificate of vaccination upon demand to any person charged to enforce this Ordinance.
- F. **Harboring an Unvaccinated Dog:** It shall be a violation of this Ordinance for any person to harbor any dog that has not been vaccinated against rabies, as provided herein, or that cannot be identified as having a current vaccination certificate.
- G. **Animals Exposed to Rabies:** Any person having knowledge of the existence of any animal known to have been or suspected of being exposed to rabies must immediately report such knowledge to the rabies authority, giving any information that may be required. For any animal known to have been or suspected of being exposed to rabies, the following rules must apply:

- (1) Animals having a current vaccination must be revaccinated immediately and confined according to the method prescribed by the Fire Marshal for a period of not more than forty-five (45) days at a facility approved by the Fire Marshal.
- (2) Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, he or she may at the owners own expense and in a manner prescribed by the Fire Marshal confine said animal. Such animal must be vaccinated immediately following exposure and isolated (as determined and approved by the Fire Marshal) for not less than three (3) months. A revaccination shall be done at the third and eighth weeks of isolation.
- (3) Each day an owner of an animal described in §§ IIIG(1) and (2) above fails to abide by those sections constitutes a separate offense.

(TEX. ADMIN. CODE, TITLE 25, PART 1, § 169.30)

- H. Any person having knowledge of an animal bite to a human shall report the incident to the Fire Marshal as soon as possible, but no later than twenty-four (24) hours from the time of the incident.
 - (1) The owner of the biting animal shall place that animal in quarantine (as required under state law) in a facility acceptable to the Fire Marshal. (TEX. ADMIN. CODE § 169.27)
 - (2) Bites from rabbits and rodents are excluded from these reporting requirements.
 - (3) If a licensed veterinarian determines that the animal does not show clinical signs of rabies, the animal may be reclaimed by its owner upon satisfying the applicable vaccination requirements as determined and approved by the Fire Marshal, and upon payment of any costs or fees if applicable.
- I. The animal control officer will report any exposure to rabies or animal bite to a human to the Fire Marshal.

- J. Animal control officers, the Fire Marshal, and any other applicable peace officer will work in conjunction to enforce the Ordinance, including, but not limited to, quarantine violations and quarantine enforcement.

IV. ABANDONED ANIMALS

- A. It is prohibited and shall be unlawful for any person to willfully abandon any animal, or to withhold food or water from any animal such that its health is endangered or to cause an animal to suffer unduly.
- B. Abandoned or neglected animals shall be handled in cooperation with the Fire Marshal's Office on a case-by-case basis, at the discretion of the Fire Marshal.

V. RESTRAINT OF DOGS REQUIRED

- A. Each dog found in the County must be restrained by its owner, regardless of whether the dog or the owner resides in the neighborhood and regardless of the owner's knowledge or mental state. A dog shall be considered "restrained" if:
- (1) The dog remains on the premises of its owner;
 - (2) The dog is under the control of a person by means of a leash.
 - (3) The dog is secure within its owner's vehicle.
- B. Notwithstanding the above, a dangerous dog or a dog that is a danger to other animals must be restrained at all times by a secure leash or in a secure enclosure.
- C. Each unrestrained dog may be detained or impounded by the Fire Marshal. At its option, the Fire Marshal may elect to issue a citation to a person who violates Section V. of this Ordinance without detaining or impounding the dog if the Fire Marshal deems the public health safety and welfare is no longer in imminent danger.
- D. A person commits an offense if the person fails or refuses to restrain a dog owned by the person that is required to be restrained under this Ordinance. An offense under this section is a Class C Misdemeanor.

VI. DOGS THAT ARE A DANGER TO ANIMALS

- A. The owner of a dog that is accustomed to run, worry, or kill livestock or domesticated animals may not permit the dog to run at large. This provision applies regardless of the owner's knowledge or mental state.
- B. A person who violates this section commits an offense punishable by a fine.
- C. Each time a dog runs at large in violation of this section constitutes a separate offense.

VII. IMPOUNDMENT OF DOGS

- A. The Fire Marshal is authorized to detain or impound:

- (1) Any dog that is required to be restrained and is not restrained;
 - (2) Any dog that is a danger to animals;
 - (3) Any dog not exhibiting evidence of being vaccinated; or
 - (4) Any dog that:
 - (a) has bitten or scratched a person,
 - (b) is reasonably suspected to be rabid, or
 - (c) is kept under conditions that could endanger the public health or health of any animal;
- B. When a dog is impounded, the Fire Marshal shall collect the fees, as approved by order of the Commissioners Court, from the owner before the dog may be released to the owner.
- C. If any dog is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such dog in a humane manner until he or she can notify the Fire Marshal to retrieve the dog for impoundment, provided, however, that they notify the Fire Marshal as soon as possible of such confinement.
- D. Reasonable efforts shall be made by the Fire Marshal to contact the owner of any dog impounded that is wearing a current rabies vaccination tag, however, final responsibility for location of an impounded dog is that of the owner.
- E. The owner may reclaim possession of any impounded dog, except a dog under quarantine or observation under this Ordinance, upon payment of impoundment fees and reimbursement for any veterinarian services incurred by the Fire Marshal for the welfare of the dog, and upon compliance with the vaccination provisions of this Ordinance.
- F. Any dog not reclaimed by the owner, if any, may be humanely euthanized after being impounded for three (3) working days, except that any dog wearing a current rabies tag may be impounded for six (6) days before the dog is euthanized. Any dog not reclaimed after the three (3) or six (6) day period described in this paragraph may be provided for adoption except those dogs in quarantine or under observation.
- G. Any vicious or wild animal, unless there is reason to believe it has an owner, may be immediately disposed of as may be deemed appropriate by the Fire Marshal.
- H. The Fire Marshal may elect to issue a citation to an owner of a dog that is in violation of this Ordinance, in addition to, or in lieu of, impoundment.
- I. All dogs picked up by the Fire Marshal under the impoundment provisions of the Ordinance will be taken to the Smith County Animal Impound Facility.
- J. The Smith County Animal Impound Facility is the designated facility in Smith County for the impoundment of stray, injured, or ill animals.

- K. If a dog picked up by the Fire Marshal has tags identifying its owner, the Fire Marshal will attempt to contact the owner.

VIII. INJURED OR ILL DOGS

Fire Marshal may impound for treatment an injured or ill dog.

IX. EUTHANASIA

Dogs may be euthanized by a licensed veterinarian or by the personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals.

X. DEFENSE OF A PERSON

In addition to the provisions set forth in the "Euthanasia" section above, the Fire Marshal may humanely destroy an animal posing an imminent threat of danger to a person under a circumstance of emergency.

XI. COSTS, FEES, OR FINES

- A. If there is an identifiable owner of the dog, then the owner must pay all applicable fines, fees, and costs associated with the enforcement of this Ordinance.
- B. If no identifiable owner exists, then the county may pay any applicable costs or fees associated with the enforcement of the Ordinance, at its discretion. If, at a later time, an owner is identified, the county may seek reimbursement and/or collection of any applicable fees, costs and fines from said owner.

XII. ADDITIONAL PROVISIONS

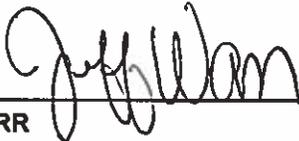
- A. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.
- B. This Ordinance does not affect the applicability of any other law, rule, order, ordinance, or other valid legal requirement of the State of Texas or an applicable political subdivision of the State of Texas, and this Ordinance shall not grant any greater rights than allowed by the laws of the State of Texas.
- C. The Commissioners Court of Smith County hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety.
- D. The promulgation and establishment of these regulations by the Smith County Commissioners Court shall not prevent or jeopardize a corporate municipality within the county from establishing any rules and regulations to prevent the introduction and spread of rabies and the control of animals within their corporate limits, and such ordinances established by the said corporate municipalities shall supersede the County Ordinance within the municipality so that dual enforcement will not occur.

- E. Nothing in this Ordinance shall be construed to allow or otherwise condone the possession or ownership of any wild or exotic animal within Smith County.
- F. It is a violation of this Ordinance for any person to make a false report or complaint regarding a violation of this Ordinance to a Fire Marshal.
- G. Fines, costs, and fees retained by the county under this Ordinance shall be deposited in the treasury of the County and may be used only to defray the cost of administering these regulations.
- H. An offense under this Ordinance is a Class C Misdemeanor.
- I. No payment of fines or fees under this Ordinance shall relieve an owner or harbinger of any dog from the jurisdiction of any court over any matter or violation of law.

ADOPTED AND APPROVED BY THE SMITH COUNTY COMMISSIONERS COURT ON THIS 23RD DAY OF FEBRUARY 2016.



**JOEL BAKER
COUNTY JUDGE**



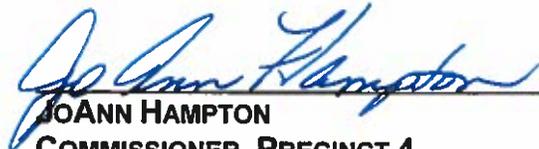
**JEFF WARR
COMMISSIONER, PRECINCT 1**



**CARY NIX
COMMISSIONER, PRECINCT 2**



**TERRY PHILLIPS
COMMISSIONER, PRECINCT 3**



**JOANN HAMPTON
COMMISSIONER, PRECINCT 4**

ATTEST:



**KAREN PHILLIPS
COUNTY CLERK**

APPROVED AS TO FORM*:



**PHILLIP SMITH
ASSISTANT DISTRICT ATTORNEY**



*By law, the Smith County District Attorney's Office (SCDAO) may only advise or approve contracts or legal documents on behalf of its clients. SCDAO may not advise or approve a contract or legal document on behalf of other parties. The review of this document was conducted solely from the legal perspective of the client. SCDAO approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).