



SIXTH AMENDED

HAYS COUNTY ANIMAL CONTROL ORDINANCE

NO. 32190

This Sixth Amended Hays County Animal Control Ordinance is made this the 24th day of January, 2017, by the Hays County Commissioners Court, which, having duly considered the need for immediate modification of the existing Animal Control Ordinance, adopts this Sixth Amended Animal Control Ordinance effective upon passage by a majority vote.

AN ORDINANCE OF THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, TO ESTABLISH A RABIES CONTROL PROGRAM, DESIGNATE A LOCAL ANIMAL CONTROL AUTHORITY, REQUIRE THE LICENSING AND RESTRAINT OF CERTAIN ANIMALS, MANDATE THE IDENTIFICATION OF LIVESTOCK, REGULATE DANGEROUS DOGS AND OTHER DANGEROUS ANIMALS, DECLARE A PUBLIC NUISANCE AND PROVIDE PENALTIES PURSUANT TO CHAPTERS 822 AND 826 OF THE TEXAS HEALTH & SAFETY CODE, CHAPTER 802 OF THE TEXAS OCCUPATIONS CODE AND CHAPTERS 142-144 OF THE TEXAS AGRICULTURAL CODES.

WHEREAS, the Commissioners Court of Hays County is authorized by Chapter 822 of the Texas Health & Safety Code to enact a local ordinance to regulate the registration and restraint of animals; and

WHEREAS, the Commissioners Court of Hays County is authorized by Chapter 826 of the Texas Health & Safety Code to enact a local ordinance to require rabies vaccinations and other measures as a means to prevent the dangerous spread of rabies; and

WHEREAS, the Commissioners Court of Hays County is authorized by Chapter 142, 143 and 144 of the Texas Agricultural Code to enact a local ordinance to prohibit livestock from running at large, mandate livestock be marked or branded; and

WHEREAS, the Commissioners Court of Hays County is authorized by chapter 802.003 (b) of the Texas Occupational Code to better regulate licensed breeders; and

WHEREAS, it is the intent of the Commissioners Court to enact this Animal Control Ordinance in an effort to protect the public health and safety of Hays County residents and encourage the humane treatment of animals; **NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, THAT:** The following provisions were adopted the 24th day of January, 2017.

SECTION 1.

INTENT AND AUTHORITY

Section 1.1. Authority. These regulations are adopted by the Commissioners Court of Hays County, Texas, acting in its capacity as the governing body of Hays County, Texas as authorized by Chapters 822 and 826 of the Texas Health & Safety Code, Chapter 802 of the Texas Occupational Code and Chapters 142-144 of the Texas Agricultural Codes.

Section 1.2. Intent. It is the intent of the Commissioners Court of Hays County, Texas, to enact this ordinance in order to protect the public health and safety of the citizens of Hays County and the Commissioners Court hereby declares that this ordinance is necessary for the immediate preservation of the public peace, health and safety. This ordinance is further intended to encourage the humane treatment of animals and prevent cruelty to animals.

Section 1.3. Strict Liability. Unless otherwise indicated, any person who violates a section of this ordinance shall be strictly liable for such violation and shall be subject to the penalties herein established.

Section 1.4. Municipal Ordinances to Supersede. This ordinance shall not prevent a corporate municipality within the county from establishing any rules and regulations to control animals within its corporate limits. Any such ordinance established by said corporate municipalities shall supersede this ordinance thereby preventing dual enforcement. In such cases, this ordinance will not be enforced within the corporate limits of any municipality.

SECTION 2.

DEFINITIONS

As used in this ordinance, the following words and phrases shall have the following meanings:

Section 2.1. Animal Control Officer- Any person designated by the Hays County Sheriff (Animal Control Officer/Deputy) to perform the duties outlined in this ordinance.

Section 2.2. Animal Owner. Any person who owns, keeps, or has custody or control of an animal.

Section 2.3 Animal Welfare Groups. Any organizations, businesses or persons that is focused and advocates on the wellbeing and standard of care of animals. In addition, such groups may focus on abandoned, neglected, unclaimed and surrendered dogs, puppies and cats. This is to also cover any unorganized efforts by persons to accomplish the same regardless to their official capacity or connection to a formal animal welfare group.

Section 2.4. Bite. Any puncturing, tearing, or scratching of the skin caused by an animal's teeth or claws.

Section 2.5. Boarding Facility. Any business, facility or operation that takes in any animals, regardless of species, for the purpose of long term or short term temporary housing of the animal for compensation or consideration.

Section 2.6. Breeder. Any person or business that breeds domesticated animals, or wild animals for conservation or the pet trade, who holds a license issued under Texas Occupation Code Chapter 802 or owns an adult intact female animal and is engaged in the business of breeding animals for direct or indirect sale of offspring of the animal or for exchange in return for consideration.

Section 2.7. Cat. Felis Catus.

Section 2.8. Dangerous Dog. A dog is dangerous if it:

- a) makes an unprovoked attack on a person causing bodily injury and the attack occurs in a place other than a confinement in which the dog is being kept; or
- b) commits unprovoked acts in a place other than a confinement in which the dog is being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Section 2.9. Dangerous Wild Animals. Any animal of the following species or hybrid thereof: wolves, lions, tigers, ocelots, cougars, leopards, cheetah, jaguars, bobcats, lynx, servals, caracals, hyenas, bears, coyotes, wolves, jackals, baboons, chimpanzees, orangutans and gorillas, or as amended under Chapter 822, Subchapter E of the Texas Health and Safety Code.

Section 2.10. Dog. Canis Familiaris

Section 2.11. Domestic Animal. Any animal that is owned, kept or controlled by a person and is a species in which the evolutionary process has been influenced by humans to meet their needs.

Section 2.12. Estray. Any livestock that is found on a property other than the owners' property or the property that the owner has permission to keep livestock on.

Section 2.13. Foster Caregiver. Any person or household that accepts an animal/s into their home on behalf of any shelter, animal welfare group or organization with the intent of temporarily housing the animal.

Section 2.14. Holiday. Those days designated as official holidays by the Hays County Commissioners Court.

Section 2.15. Livestock. Any animal that is generally kept for agricultural purposes to include but not limited to:

- a) Any hooved animal including captive or domestic breeds of bovine, equine, swine, goat, sheep, Alpaca, Lama, deer or any ungulates
- b) Any poultry including captive and domestic breeds of chicken, swans, geese, turkey and peacocks
- c) Ratites including Rhea, Emu and Ostriches

Section 2.16. Public Nuisance. Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to the enjoyment of life or property. The term public nuisance shall mean and include, any animal that:

- a) repeatedly is at large or stray;
- b) damages the property of anyone other than its owner;
- c) molests or intimidates pedestrians or passersby;
- d) chases vehicles or bicycles.

Section 2.17. Restraint. An animal shall be deemed to be under restraint if it is:

- a) tied in such a way as to prevent it from leaving or extending past the owner's premises/property and from being within ten (10) feet of any public right-of-way;
- b) totally enclosed in a fence constructed in such a way as to prevent it from leaving the owner's premises. The use of a wireless fence which transmits either a high frequency sound or a pulse stimulus shock and that is intended to train the dog to stay on the premises will not be considered a means of restraint; or
- c) accompanied by a responsible person who is controlling it on a leash.

Section 2.18. Restraint That Unreasonable Limits the Dog's Movement. A restraint;

- (1) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
- (2) is a length shorter than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (B) 10 feet;
- (3) is in an unsafe condition; or
- (4) causes injury to the dog.

at any time and at any location.

Section 2.19. Running At Large. Not completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal completely to the owner's property except when a dog subject to these regulations is under the direct supervision of the owner and is:

- a) on a leash;
- b) held in the hands/arms of the owner or within the limits of the owner's private property and is obedient to that owner's verbal commands;
- c) within an automobile or vehicle of its owners and properly restrained; or
- d) participating in a field trial, dog show, or obedience classes.

Section 2.20. Secure Enclosure. A fenced area or structure that is:

- a) locked;
- b) capable of preventing the entry of the general public including children;
- c) capable of preventing the escape or release of a dangerous dog;
- d) clearly marked as containing a dangerous dog; and
- e) conforms to the requirements for enclosures established by the Animal Control Authority.

Section 2.21. Serious Bodily Injury. An injury characterized by severe bite wounds or severe ripping and tearing of muscle or tissue that would cause a reasonably prudent person to seek treatment from a medical professional or would require hospitalization without regard to whether the person actually sought medical treatment.

Section 2.22. Shelter. A structure constructed to have a roof, four sides (with an opening to allow entry and exit), and a floor that:

- (1) is large enough for the animal to enter, stand, turn around, and lie down in a natural manner;
- (2) keeps the animal dry;
- (3) provides the animal with natural or artificial shade from direct sunlight;
- (4) protects the animal from excessive heat and cold and other adverse weather conditions; and
- (5) is adequately ventilated.

Section 2.23. Stray. Any animal subject to these regulations that is running at large and whose ownership is not readily ascertainable shall be deemed a stray. Absence of a current rabies tag and/or a tag identifying the owner on any animal subject to these regulations is evidence of its status as a stray.

Section 2.24. Tether. To secure or tie an animal by means of any cable, chain, rope or lead as a means to maintain the animal to the owner's property. This includes a tether to a fixed/stationary location or on a cable run or a guide cable/rope.

Section 2.25. Vaccinated. An animal which has been currently and 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 by the State of Texas.

Section 2.26. Wild Animal. All species of animals that naturally exist in an unconfined state and are usually not domesticated shall be deemed wild. This definition shall apply whether or not the wild animal has been confined for any duration in any fashion.

SECTION 3. **LOCAL ANIMAL CONTROL AUTHORITY**

Section 3.1. Designation of Animal Control Officer. The Commissioners Court of Hays County, Texas, hereby designates the Hays County Sheriff as the local health authority and creates the position of Animal Control Officer within the Sheriff's Office to assist with the following:

- a) formulation of rules and procedures to be approved by Commissioners' Court for the enforcement of this ordinance;
- b) supervising the implementation, administration and enforcement of this ordinance.

Section 3.2. Duties of Animal Control Officer. The Animal Control Officer or his authorized designee will be responsible for, but not limited to, the following duties as set forth in this ordinance and to carry out provisions of the State laws pertaining to control and eradication of rabies.

- a) Animal bites – receive and investigate reports or animal bites within Hays County in a timely manner. Bites occurring within municipalities having Animal Control Ordinances will be referred to the proper municipal authority.

- b) Quarantine – perform immediate and proper quarantine procedures for animals suspected of having rabies. Animals may be placed in approved animal shelters or veterinary hospitals.
- c) Impoundment – the Animal Control Officer or his authorized designee will humanely capture and transport an animal to the County’s designated animal shelter or kennel for violations set forth in this ordinance.
- d) Destruction – perform immediate, if warranted, proper and humane destruction of certain animals described in this ordinance.
- e) Citations – Issuance of citations for various violations and offenses set forth.
- f) Records – Provide necessary data and reports on a periodic basis as required by the Hays County Commissioners Court.

Section 3.3. Interference with the Animal Control Officer and Penalty. It shall be unlawful for any person to intentionally or knowingly, by act or omission, physically interfere with, molest, hinder, or prevent the Animal Control Officer from the official discharge of the duties herein prescribed. No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to, or set out by, the Animal Control Department or its designee.

Section 3.4 Penalty. Any person who violates a provision of Section 3 shall be guilty of a Class B misdemeanor. (Penal Code Sec. 38.15 (a) (6))

SECTION 4. **LICENSING AND REGISTRATION** **(Auth. by H&SC 826.031)**

Section 4.1 Animals Required to be Licensed. All dogs and cats older than three (3) months which are kept, possessed, or controlled within Hays County shall be licensed at a rate of \$15.00 per year with the one year Rabies vaccine or \$25.00 per every three years for animals vaccinated with the three year Rabies Vaccine. No person may use a license for any animal other than the animal for which it was issued.

Section 4.2 Cooperation with Local (to be determined). In an effort to encourage the registration of dogs and cats, any organization or branch of government who registers any Hays County animals are authorized to retain fees collected in an effort to offset any expense incurred in the administering of registrations. Any fees collected by the County relating to the registration of animals shall be used to administer the Animal Control program for the County.

Section 4.3 Exceptions. Owners of the following categories of dogs are not required to obtain a license.

- a) Dogs possessed by animal breeders operating under a business name and possessing a sales tax permit.
- b) Sheltered and impounded animals housed by licensed veterinarians or the county or municipal animal shelters.
- d) Dogs trained to assist law enforcement.
- e) Dogs with a valid license from a municipality within Hays County in which the animal resides.

- f) Non-resident dogs remaining within Hays County for less than sixty (60) days.

Section 4.4. Penalty. Any person who violates a provision of Section 4 shall be guilty of a Class C misdemeanor.

SECTION 5.
RABIES CONTROL PROGRAM
(Auth. H&SC 826.012)

Section 5.1. Rabies Vaccination. No person shall own, keep, or harbor within the county any dog or cat over the age of four (4) months unless such dog or cat has a current rabies vaccination. Every domestic dog or cat must be revaccinated against rabies at a minimum of at least once every three years. Any person moving into the county shall comply with this section within ten (10) days after having moved into the county.

Section 5.2. Certificate of Vaccination. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat a certificate using a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. Such certificate shall contain the following information.

- a) the name, address and telephone number of the owner of the vaccinated dog or cat;
- b) the date of vaccination;
- c) the type of rabies vaccine used;
- d) the year and number of rabies tag; and
- e) the breed, age, color, and sex of the vaccinated dog or cat.

Section 5.3. Rabies Tag. Concurrent with the issuance and delivery of the certificate of vaccination, the veterinarian shall furnish to the owner of the vaccinated dog or cat a metal tag. The owner of the dog or cat shall attach the metal tag to the collar or harness of the vaccinated dog or cat, serial numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and his/her address. The owner shall have the collar or harness, with the metal tag attached, on his/her dog or cat at all times. Any other methodology approved and accepted by the Texas Department of Health for identification purposes will be considered by the Animal Control Officer.

Section 5.4. Duplicate Tags. In the event of loss or destruction of the original tag provided in Section 5.3, the owner of the animal shall obtain a duplicate tag. Vaccination certificates and tags shall be valid only for the animal for which it was originally issued. Duplicate tags may be purchased from any practicing veterinarian in Hays County.

Section 5.5. Proof. It shall be unlawful for any person who owns a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this order.

Section 5.6. Animals Exposed to Rabies.

- a) Any person who has reason to believe that any animal, whether or not currently vaccinated, has been exposed to rabies must immediately report the incident to the Animal Control Authority.
- b) Any such animal shall be impounded and placed in isolation in a facility approved by the Animal Control Authority, for such time as is necessary, depending upon all

relevant circumstances, for a licensed veterinarian to determine that the animal has not contracted rabies.

- c) If the owner of the animal cannot provide an approved isolation facility or does not agree to pay for the facility, the animal shall be humanely destroyed at the owner's expense.
- d) If the animal's owner cannot be identified or located within seventy-two (72) hours from the time of impoundment, not counting weekends nor holidays, the animal shall be humanely destroyed.
- e) In addition to any impound fees, any costs directly associated with the examination, treatment, and/or vaccination of the animal shall be due prior to release of the animal.

Section 5.7. Penalty for Violation.

- a) Any person who violates a provision of Section 5 shall be guilty of a Class C misdemeanor.
- b) It is a defense to prosecution under this section that the person charged produces proof of vaccination that was valid at the time the offense is alleged to have occurred.

SECTION 6.

REPORTING BITES FROM ANIMALS SUSCEPTIBLE TO RABIES

Section 6.1. Report Required. Any person having knowledge of a bite to a human by any warm-blooded animal shall report the incident to the Animal Control Officer immediately.

Section 6.2. Quarantine Required. The owner, if any, of the biting animal shall place the animal in quarantine as prescribed in Section 7 under the supervision of the Animal Control Officer.

Section 6.3. Investigation. The Animal Control Officer shall investigate each bite incident reported.

SECTION 7.

QUARANTINE PROCEDURES

Section 7.1. Rabies Quarantine.

- a) When an Animal Control Officer has probable cause to believe that the owner of an animal that has bitten a human has been identified, the owner, if any, will be required to produce the animal for ten (10) days quarantine at the owner's expense.
- b) The ten (10) day quarantine period begins on the day the animal is produced for quarantine.
- c) The animal must be placed in an animal control facility or a veterinary hospital approved for that purpose by the Texas Department of Health.

Section 7.2. Owner Refuses Quarantine. If the biting animal is not produced to a quarantine facility within forty-eight (48) hours of being notified of such requirement by a Sheriff's designee, the Sheriff's designee may apply for a seizure warrant at the local Justice of the Peace to seize the animal. The animal shall then be placed into a quarantine facility at the owner's expense. Failure of an owner to make arrangements with the quarantine facility for payment of services could result

in the destruction of the animal seventy-two (72) hours after the completion of the quarantine period.

Section 7.3. Wild Animals. No wild animals will be placed in quarantine. All wild animals involved in biting incidents shall be humanely killed in such a manner that the brain is not mutilated and the brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

Section 7.4. Penalty for Violation.

- a) Any person who violates a provision of Section 7 shall be guilty of a Class C misdemeanor.
- b) If it is shown on trial that a person has been previously convicted under this section, no portion of a fine imposed for subsequent violations may be deferred, suspended or probated.
- c) Each day an animal is not produced for quarantine shall constitute a separate offense.

SECTION 8.
PROHIBITION OF A NUISANCE
(Auth.H&SC 826.033)

Section 8.1. Dogs Prohibited from Running at Large.

- a) When the owner of a dog running at large is determined and the owner can be located, the dog may be returned to its owner and the owner may be cited for violation of this order.
- b) If ownership is in question or if the animal is a stray, the animal shall be impounded for seventy-two (72) hours, not counting weekends nor holidays.
- c) An owner may claim the animal within this time period after paying all incurred costs and impoundment fees.
- d) Upon failure of the owner to claim the animal during that period, the Animal Control Officer may order the animal destroyed without compensation to the owner.

Section 8.2. Penalty for Violation. Any person who violates a provision of Section 8 shall be guilty of a Class C misdemeanor.

SECTION 9.
UNLAWFUL RESTRAINT

Section 9.1 Tethering. It shall be a violation of this ordinance for a person to tether an animal in a manner that unreasonably limits the dog's movement as defined in section 2.18 of this ordinance. It shall also be a violation under this section if an owner:

- a) fails to provide the animal clean drinking water at all times.
- b) fails to provide shelter, as defined by this ordinance, at all times.

Section 9.2 Penalty for Violation. Any person who violates a provision of Section 9 shall be guilty of a Class C misdemeanor.

SECTION 10.
OWNERSHIP OF DANGEROUS DOGS

Section 10.1. Requirements for Ownership of a Dangerous Dog. An owner of a dangerous dog must:

- a) Register the dangerous dog with the Hays County Animal Control Officer for the area in which the dog is kept.
- b) Pay an annual fee of \$100.00 to the Hays County Sheriff's Office.
- c) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure which has been approved by the Animal Control Officer.
- d) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and be capable of being read from a public street or highway.
- e) Spay or neuter the dangerous dog.
- f) Obtain necessary insurance or show financial responsibility in the amount of at least \$100,000 to cover damages to persons and property resulting from a dog attack.

Section 10.2. Limitation of Ownership of Dangerous Dogs.

- a) Only one dangerous dog may be owned per household.
- b) No more than one dangerous dog may remain at any residence for more than seven days.

Section 10.3. Declaration of a Dangerous Dog.

- a) Animal Control may find and declare a dog to be dangerous or potentially dangerous if Animal Control has probable cause to believe that a dog committed any acts described in the definition of Dangerous Dog (Section 2.8) or that the dog repeatedly bit or vigorously shook its victim and the victim, or a person intervening, had difficulty terminating the attack; or
- b) Upon receipt of an affidavit of complaint signed by one or more individuals, made under oath before an individual authorized by law to take sworn statements or made at the Animal Control Office, setting forth the nature and the date of the act, the location of the event, the name of the owner of the dog, the address of the owner, and the description of the dog doing such act, Animal Control shall investigate the complaint and determine if a dog is dangerous.

Section 10.4. Notification of Declaration of Dangerous Dog.

- a) Within five (5) working days of declaring any dog dangerous or potentially dangerous, Animal Control will notify, by regular mail and by certified mail, return-receipt requested, the owner of the dog(s) designated as a dangerous dog. Animal Control shall also post a written notice at the entrance of the premises where the dog is harbored.
- b) Receipt of said notice shall be presumed upon proof of either of the following occurrences:
 - 1) Return of an executed return-receipt;
 - 2) Affidavit by Animal Control of deposit of a correctly addressed notice into United States mail; or
 - 3) Affidavit by Animal Control of posting of the notice at the premises where the dog was harbored.

- c) An owner may appeal this declaration to a justice court of competent jurisdiction. If the dog is declared to be dangerous, the notice shall inform the owner of the dog that a determination hearing may be requested to contest the declaration. The request for a determination hearing must be in writing and must be received by the appropriate Justice of the Peace no later than ten (10) working days from receipt of notice by the owner of the dog. Failure to appeal the declaration within ten (10) working days shall result in Animal control's decision becoming final.

Section 10.5. Determination Hearing.

- a) Upon written request for a determination hearing by the owner of a dog declared dangerous, the dog in question will be subject to any behavior assessment test or any other means available to Animal Control. The results of any tests will be presented at the determination hearing and be taken into consideration for the final determination. The owner shall be responsible for any costs incurred for the test or tests to be conducted and fees of the animal behaviorist to analyze the video test or tests.
- b) The owner shall be notified of the hearing by placing the notice in the United States mail addressed to the owner. Failure of the owner of the dog to appear at the determination hearing shall result in the Animal Control's declaration becoming final. Pending the outcome of the determination hearing, the dog must be securely confined in a humane manner at a licensed veterinarian facility or in an animal shelter. The costs of securing the dog pending the determination hearing shall be borne by the owner.
- c) The court shall determine by a preponderance of the evidence whether the declaration that the dog is dangerous is proper based upon the evidence, affidavits, and testimony presented at the hearing.

Section 10.6. Defense to Declaration of Dangerous Dog. It is a defense to the determination of any dog as dangerous and to the prosecution of the owner of the dog:

- a) If the threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
- b) If the person was teasing, tormenting, abusing, or assaulting the dog;
- c) If the person was committing or attempting to commit a crime;
- d) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
- e) If the dog was injured and responding to pain.

Section 10.7. Exemptions. It is a defense to prosecution that a person is:

- a) A veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the State to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position;
- b) An employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- c) A dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies, Tex. Rev. Civ. Stat. Art. 4412 (29BB).

Section 10.8. Confiscation.

- a) Until the owner of a dog determined to be dangerous has met the requirements placed on that owner by Section 822.042, Texas Health & Safety Code and this order, the Animal Control Officer or his designee shall seize the dog whether it be found on public or private property.
- b) The Animal Control Officer shall have no authority to seize any dog unless he has first delivered to the owner of the dog, a written notice of the determination that the dog is a dangerous dog. The notice may be delivered either in person or by certified mail, return receipt requested, directed to the last known mailing address of the owner.
- c) The Animal Control Officer shall be required to obtain a search and seizure warrant to gain custody of any dog/s.
- d) If an attempt is made by the Animal Control Officer to impound a dangerous dog and the impoundment cannot be made safely, the owner shall be notified and given twenty-four (24) hours to surrender the dog to the Animal Control Officer. The notice shall include a warning that failure to surrender the dog may result in destruction of the dog if it cannot be safely impounded on any subsequent attempt;
- e) The dog thus seized shall be ordered sheltered by the Animal Control Officer for a period of seventy-two (72) hours, not counting weekends nor holidays, to allow the owner to claim the dog upon satisfaction of the provisions of Section 822.042 and 822.042 of the Texas Health & Safety code and this ordinance. Upon failure of the owner to reclaim the dog during that period, the Animal Control Officer may humanely destroy the dog without compensation to the owner.
- f) In addition to the fees required for registration of the dog, the owner must prior to the dog's release, satisfy all above-referenced provisions.

Section 10.9. Penalty for Violation.

- a) Any person who violates a provision of Section 10 shall be guilty of a Class C misdemeanor.
- b) If it is shown on trial that a person has been previously convicted under this Section, no portion of a fine imposed for subsequent violations may be deferred, suspended or probated.
- c) Each day that a person owns a dangerous dog in violation of this section shall constitute a separate offense.
- d) An offense under this section is a Class B misdemeanor if the defendant has previously been convicted under this section.
- e) If a person is found guilty of an offense under this section, and the offending dog caused death or serious bodily injury, the Court may order the dangerous dog destroyed by Animal Control in a humane manner.

SECTION 11. **ATTACKING DOMESTIC ANIMALS**

Section 11.1 Dogs That Attack Domestic Animals.

- a) A dog or coyote that is attacking, is about to attack, or has recently attacked livestock or other domestic animals or fowls may be destroyed by:
 - 1) Any person witnessing the attack; or

- 2) The attacked animal's owner or a person acting on the behalf of the owner. If the owner or person has knowledge of the attack.
- b) Subsection 11.1 (a), above, does not authorize a person to violate other local, state or federal laws, including but not limited to Trespassing or Disorderly Conduct.
- c) A person who kills a dog as provided by this section is not liable for damages to the owner, keeper or person in control of the dog.
- d) A person who discovers on the persons property a dog known or suspected of having attacked livestock, domestic animals or fowl may detain or impound the dog and return it to its owner or deliver the dog to the Animal Control Unit of the Sheriff's Office. The owner of the dog is liable for all cost incurred in the capture and care of the dog and all damage done by the dog.
- e) The owner, keeper or person in control of a dog that is known to have attacked livestock, domestic animal or fowl shall control the dog in a manner approved by the Animal Control Unit of the Sheriff's Office and shall not permit the dog to run at large.
- f) A person is not required to acquire a hunting license under section 42.002, Parks and Wildlife Code to destroy a dog or coyote under this section.
- g) A dog that attacks livestock, domestic animals or fowls may be registered as a dangerous dog and treated in accordance with Section 10.4, above

Section 11.2 Protection of Livestock.

- a) The owner of any sheep, goats, calves, or other domestic animals that are subject to the ravages of sheep-killing dogs may place poison on the premises where the animals are kept.
- b) The owner must post notice of the poison at each entrance to the premises before placing the poison.

Section 11.3 Penalty for Violation.

- a) The owner of a dog who permits the animal to run at large in violation of section 11.1(e) commits a class C Misdemeanor offence.
- b) Each time a dog runs at large in violation of this section constitutes a separate offence.

Section 11.4 Dangerous Dogs Related to Attacks on Animals. The penalties for violation of the dangerous dog provisions cited in section 8 and section 822.005 of the Health and safety Code shall only apply to attacks against a person. If an attack occurs against livestock, domestic animal or fowl, the following procedures shall be followed:

- a) The first known attack by a dog against livestock, domestic animals or fowl shall result in the prosecution of the owner under section 11.3, above. If the owner is adjudicated for the violation cited in Section 11.3, above then Animal Control shall register the dog as a dangerous dog for the purpose of this subsection. After Animal Control has registered the dog as a dangerous dog under this section, Animal Control may provide the owner with written requirements that will better enable the owner to control the dangerous dog. If the owner fails to implement these requirements to the satisfaction of Animal Control, then Animal Control may apply for a seizure order or confiscate the dog in accordance with Section 10.8 above.

- b) If a dog that is registered under this subsection is subsequently accused of an attack against livestock, domestic animals or fowl while the dog is running at large then Animal Control shall:
 - 1) Schedule a hearing in accordance with section 10.5, above;
 - 2) Provide prior notice of such hearing to the owner: and
 - 3) Seize the dog in accordance with Section 10.8, above, unless the owner securely confines the dog to the satisfaction of Animal Control.

If it is shown by a preponderance of the evidence that the dog, indeed, attacked livestock, domestic animals or fowl then the Animal Control Unit shall arrange the humane destruction of the dog.
- c) If, after a hearing, it is found that the dog shall be humanely destroyed under subsection 11.4(b) above, the owner may immediately and voluntarily relinquish ownership of the dog and request that the court allow placement of the dog with a nonprofit animal shelter, pound or society for the protection of animals. The court may withdraw the order to have the dog humanely destroyed and grant such a request, if the owner swears, in writing, to refrain from;
 - 1) Interfering with the animals placement, and/or
 - 2) Attempting to own or possess the animal in the future.

SECTION 12.
LIVESTOCK PROHIBITED FROM RUNNING AT LARGE
(AUTH. AG CODE 143.021)
(Adopted 1936 STOCK LAW, Vol. H page 316)

Section 12.1 Loose Livestock.

- a) Any livestock that is found to not be on the owners' property or on the property that the owner has permission to keep livestock on shall be deemed as an estray.
- b) After receiving a report under Subsection (a) of this section that an estray has been discovered on private property, the Sheriff or the Sheriff's designee shall notify the owner, if known, that the estray's location has been reported.
- c) After receiving a report under Subsection (a) of this section that an estray has been discovered on public property, the Sheriff or the Sheriff's designee shall notify the owner, if known, that the estray's location has been reported, except that if the Sheriff or his designee determines that the estray is dangerous to the public, he may immediately impound the estray without notifying the owner. If the owner does not immediately remove the estray, the Sheriff or the Sheriff's designee shall proceed with the impoundment process prescribed by Section 142.009 of Texas Agricultural Code.

(AUTH. AG CODE 144.01)

Section 12.2. Owner's Brands.

- (a) Each person who has cattle, horses, hogs, sheep, or goats shall have and may use one or more earmarks, brands, tattoos, or electronic devices differing from the earmarks, brands, tattoos, and electronic devices of the person's neighbors.

- (b) A person who owns a horse may have and use one or more of the following to identify the horse:
- (1) a brand differing from the brand of the person's neighbors, including a fire or electric heat brand, freeze brand, acid brand, or hoof brand;
 - (2) an earmark differing from the earmark of the person's neighbors;
 - (3) a tattoo differing from the tattoo of the person's neighbors;
 - (4) an electronic device; or (5) another generally accepted identification method.

(AUTH. AG CODE 144.041.)

Section 12.3 Marks and Brand to be Recorded.

- (a) Each person who owns cattle, hogs, sheep, or goats shall record that person's earmarks, brands, tattoos, and electronic devices with the county clerk of the county in which the animals are located.
- (b) A person who owns a horse shall record an identification mark authorized by Section 12.2 with the County Clerk of the county in which the animal is located.
- (c) The County Clerk shall keep a record of the marks and brands of each person who applies to the clerk for that purpose.
- (d) A person may record that person's marks and brands in as many counties as necessary.
- (e) A person may record any mark or brand that the person desires to use if no other person has recorded the mark or brand, without regard to whether that person has previously recorded a mark or brand.
- (f) Not later than the 30th day after the date a County Clerk receives a record relating to cattle or horses under this section, the clerk shall forward a copy of the record to the association authorized to inspect livestock under 7 U.S.C. Section 217a.
- (g) The recording of marks and brands at a point of sale for use by an association authorized to inspect livestock under 7 U.S.C. Section 217a does not serve as a record under this chapter. An association authorized to inspect livestock under 7 U.S.C. Section 217a has no duty to verify ownership at a point of sale.
- (h) A County Clerk may accept electronic filing or rerecording of an earmark, brand, tattoo, electronic device, or other type of mark for which a recording is required under this chapter or other law.

Section 12.4. Penalty for Violation. Any person who violates a provision of Section 12 shall be guilty of a Class C misdemeanor.

SECTION 13.

REGULATION OF CERTAIN FACILITIES AND BUSINESSES

Section 13.1. Breeders.

- (a) All breeders, as defined in section 2.6 of this ordinance and is located within Hays County, shall register their facility/operation with the county Animal Control unit of the Sheriff's Office at no cost to the breeder. Animal Control will provide the registration form upon request or when the breeder is notified of these regulations.

- (b) All breeders will be subject to inspection of each location of operation of the breeder at least once in every 12-month period and at other times as necessary to ensure proper care of the animals kept at each location.
- (1) An Animal Control Officer herein referred to as inspector shall conduct each inspection of the facility/operation.
 - (2) The inspection must be conducted during the operations normal business hours, and the breeder or a representative of the breeder must be given a reasonable opportunity to be present during the inspection.
 - (3) If necessary, to adequately perform the inspection, the inspector may determine it is appropriate to not provide advance notice to the breeder or a representative of the breeder before arriving at the facility/operation. The breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.
 - (4) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a breeder except as necessary to access animals or other property relevant to the care of the animals. The inspector may request that relevant documents or records be provided for inspection.
 - (5) The inspector shall submit an inspection report to the Animal Control Supervisor not later than the 10th day after the date of the inspection and provide a copy of the report to the breeder or its representative.

Section 13.2 Boarding Facilities

- (a) All boarding facilities, as defined in section 2.5 of this ordinance, located within Hays County shall register their facility/operation with the county Animal Control unit of the Sheriff's Office at no cost to the facility. Animal Control will provide the registration form upon request or when the facility/operation is notified of these regulations.
- (b) All facilities will be subject to inspection of each location of operation of the facility at least once in every 12-month period and at other times as necessary to ensure proper care of the animals kept at each location.
- (1) An Animal Control Officer, herein referred to as inspector, shall conduct each inspection of the facility.
 - (2) The inspection must be conducted during the facilities normal business hours, and the owner or a representative of the owner must be given a reasonable opportunity to be present during the inspection.
 - (3) If necessary to adequately perform the inspection, the inspector may determine it is appropriate to not provide advance notice to the facility or a representative of the facility before arriving at the facility. The facility or its representative shall, on request of an inspector, assist the inspector in performing the inspection.
 - (4) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a facility except as necessary to access animals or other property relevant to the care of the animals kept at each location. The inspector may request that relevant documents or records be provided for inspection.

- (5) The inspector shall submit an inspection report to the Animal Control Supervisor not later than the 10th day after the date of the inspection and provide a copy of the report to the facility or its representative.
- (c) No boarding facilities shall allow or permit any stray or lost animals to be placed in their custody. All animals found to be a stray must be turned over to Animal Control and held at the animal facility, the county deems as the county shelter under contract or ownership, for a minimum of seventy-two (72) hours pursuant to section 8.1 of this ordinance.

Section 13.3 Animal Welfare Groups.

- (a) No welfare groups as defined in section 2.3 shall allow or permit any stray or lost animals to be placed in their custody. All animals found to be a stray or running at large must be turned over to Animal Control and held at the animal facility, the county deems as the county shelter under contract or ownership, for a minimum of seventy-two (72) hours pursuant to section 8.1 of this ordinance.
- (b) All welfare groups located within Hays County shall register their facility/operation with the county Animal Control unit of the Sheriff's Office at no cost to the welfare groups. Animal Control will provide the registration form upon request or when the welfare groups are notified of these regulations.
- (c) All welfare groups shall be subject to inspection of each location of operation of the welfare group at least once in every 12-month period and at other times as necessary to ensure proper care of the animals kept at each location. If the organization does not have a facility, the organization shall provide the locations where any animals under that organizations control are being housed to include a list of private residences that are acting as foster caregivers.

(1) An Animal Control Officer herein referred to as inspector shall conduct each inspection of the facility/operation or locations where animals are harbored.

(2) The inspection must be conducted during the operations normal business hours, and the manager or a representative of the welfare group should be given a reasonable opportunity to be present during the inspection.

(3) If necessary, to adequately perform the inspection, the inspector may determine that it is appropriate to not provide advance notice to the welfare group or a representative of the welfare group before arriving at the location to be inspected. The welfare group or its representative shall, on request of an inspector, assist the inspector in performing the inspection.

(4) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a welfare group except as necessary to access animals or other property relevant to the care and housing of the animals. The inspector may request that relevant documents or records be provided for inspection.

(5) The inspector shall submit an inspection report to the Animal Control Supervisor not later than the 10th day after the date of the inspection and provide a copy of the report to the welfare group or its representative.

Section 13.4 Foster Caregivers. Any persons acting in the capacity as a foster caregiver as defined under section 2.13 of this ordinance and/or working under any of the facilities or

businesses outlined in section 13 must, prior to accepting animals complete an animal husbandry course that has been approved by Animal Control for the type of animal being accepted into the persons care.

Section 13.5. Penalty.

- (a) It shall be a class b misdemeanor under Texas Penal Code Sec. 38.15 (a) (6) for anyone to knowingly, willingly or recklessly prevent or hinder an Animal Control officer from conducting an inspection under section 13 of this ordinance.
- (b) It shall be a class c misdemeanor for a person to knowingly willingly or recklessly refuse to register their facility or operation under section 13 of this ordinance.
- (c) It shall be a class c misdemeanor for a person to knowingly willingly or recklessly fail to comply with section 13.4 of this ordinance.
- (d) Each day any organization business or group, covered in section 13, fails to register its operation with the Hays County Animal Control shall constitute a separate offense
- (e) Any deficiencies or violations of section 13 may be reported to the State Comptroller's Office with regards to any Animal Welfare Groups that are classified as 501c (non-profit).

SECTION 14.
IMPOUNDMENT FACILITIES AND FEES

Section 14.1. Animal Facilities. The Hays County Commissioners Court may enter into contracts or agreements with public, private entities, or animal shelters to provide for the impoundment of animals under this ordinance or to carry out other activities required or authorized by this ordinance. Any animal adopted from an animal facility that has entered into a contract with Hays County shall require that all animals adopted be spayed or neutered within forty-five (45) days of the adoption.

Section 14.2 Impoundment Fees. An owner of an animal that has been impounded under any section of this ordinance shall pay all applicable impoundment fees, as established by Animal Control and the animal facility where each animal was housed as approved by the Animal Control Officer, before retrieving the animal.

SECTION 15.
INDEMNITY

Section 15.4 Severance Clause. If any section, sentence, or clause 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.

EXCEPT FOR THE ABOVE MODIFICATIONS, ALL OTHER PROVISIONS OR ORDINANCE NUMBER 20893, PASSED ON OR ABOUT MARCH 18, 2003 AND ORDINANCE NUMBER 27916, PASSED ON OR ABOUT FEBRUARY 28, 2012, REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT ORDER OF THE HAYS COUNTY COMMISSIONERS COURT.



Bert Cobb, M.D., Hays County Judge

ATTEST:


Liz Q. Gonzalez
Hays County Clerk

Deputy

