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Orange County Attorney

ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS 77630

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September 14, 1995

Judge Carl K. Thibodeaux
County Judge
Orange County Courthouse
Orange, Texas 77630

Dear Judge:

Enclosed please find a final draft of the Orange County Animal Restraint and Rabies Control Ordinance. As you will note, there is no section providing for protection of the Animal Control Officer. The statute which authorizes Orange County to adopt this ordinance does not provide specifically for the protection of the officer administering the program. You, therefore, have no authority to adopt any special protection for the officers administering this program. Any interference with the Rabies and Animal Control Authority in the performance of his duties, could be classified as interference with public duty under the Texas Penal Code.

If you have any further questions or comments regarding this ordinance, please do not hesitate to contact me.

Yours very truly,

A handwritten signature in cursive script that reads "John D. McElroy".

John D. McElroy
Assistant County Attorney

JDM/jk

- cc: Commissioner Donald Cole
- Commissioner Bill Harland
- Commissioner C.J. Huckaby
- Commissioner Ron Sigler

**ORANGE COUNTY ANIMAL RESTRAINT
AND RABIES CONTROL ORDINANCE
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**ORANGE COUNTY ANIMAL RESTRAINT AND
RABIES CONTROL ORDINANCE**

SECTION I. Purpose

This is an ordinance relating to the restraining, licensing, vaccinating, confinement, disposition and disposal of animals and replaces the prior Regulations relating to Rabies and Animal Control in Orange County. Authority for this ordinance is derived from the Rabies Control Act of 1981, (V.T.C.A., Health & Safety Code § 826.001, et seq.)

The purpose of this ordinance is to establish a county-wide program to restrain animals and to control and eradicate rabies in Orange County. This program shall be administered by the Orange County Rabies and Animal Control Authority, under authorization of the Commissioners Court of Orange County.

SECTION II. Definitions

For the purposes of this ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; singular numbers include the plural, and the plural, the singular; reference to the male gender includes the female, and reference to any person or animal without specifying gender, includes both male and female; the word "shall" is mandatory and not directory.

- A. "The Act" shall be Rabies Control Act of 1981 (V.T.C.A., Health & Safety Code § 826.001, et seq.)
- B. "Animal" shall mean every living creature, either male or female, domestic or wild, except members of the human race.
- C. "Animal Shelter" shall mean, a humane society, municipal agency, or any other governmental entity or their authorized agents for the purpose of impounding or caring for animals held under the authority of this Ordinance or state law.
- D. "At Large" shall mean any animal that is off the premises of its owner's real property and not restrained by a competent person.
- E. "Bite" shall mean any abrasion, scratch, puncture, tear or piercing of skin actually or suspected of being caused by an animal.
- F. "Cat" shall mean all domestic species or varieties of the felis catus, male or female.
- G. "Certificate" shall mean a certificate issued at the time of the vaccination of the dog or cat, and bearing thereon the signature of the vaccinator, the registration number, the name, color, breed and sex of the dog or cat, the name and address of the owner, the date of the vaccination, and type of vaccine administered.
- H. "Competent person" shall mean a human being that is capable of controlling and governing the animal in question and to whose commands the animal is obedient.

- I. "Confined or confinement" of an animal shall mean confined within a building or home, or within a fenced yard or premises, so that the animal cannot escape from said building, house or fenced yard or premises without human assistance.
- J. "County" shall mean Orange County, Texas.
- K. "Currently Vaccinated" means vaccinated and satisfying the following criteria:
- (1) The animal must have been at least three months of age at the time of vaccination.
 - (2) At least thirty (30) days have elapsed since initial vaccination.
 - (3) Not more than twelve (12) months have elapsed since the most recent vaccination.
- L. "Dangerous or Vicious Animal" shall mean any animal that is running at large and bites, or attempts to bite, any person or animal.
- M. "Dangerous Dog" shall mean a 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 its construction was reasonably certain to prevent the dog from leaving said 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.
- N. "Dog" shall mean all domesticated members of the canis familiaris, male or female, four months of age or older.
- O. "Exposed to rabies" shall mean any animal whether it has been vaccinated for rabies or not, which has been bitten, been fighting with or has consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.
- P. "Humane manner" shall mean the care of an animal to include, but not be limited to: adequate heat, space, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species and breed.
- Q. "Impound" shall mean the apprehending, catching, trapping, netting, tranquilizing, confining, or, if necessary, the destruction of any animal by the Rabies and Animal Control Authority.
- R. "Impounding Facility" shall mean any premises designated by the Commissioners Court for the purpose of impounding and caring for all animals found in violation of this ordinance.
- S. "Isolation" shall mean kept separated and protected from all other animals or humans.

T. "Nuisance" shall describe an animal if it: damages private property, other than the owner's; causes unsanitary, dangerous, or offensive conditions; or molests, attacks, or interferes with persons or other domestic animals.

U. "Owner" shall mean any person who owns, harbors, shelters, keeps, controls, manages, possesses, or has part interest in any animal.

The occupant of any premises, on which an animal remains for a period of seven (7) days (or to which it customarily returns daily for a period of ten (10) days) is presumed to be harboring, sheltering or keeping the aforementioned animal within this definition. Under no circumstances are the normal and ordinarily accepted definitions of the terms harboring, sheltering or keeping, to be limited to the words of the aforementioned presumption.

If a minor owns an animal subject to the provisions of this Section, the head of the household of which such minor owner is a member, shall be deemed to be the owner of such animal for the purpose of this Section and under this Section shall be responsible as the owner, whether or not such household head is himself a minor. If not a member of a household, such minor owner shall himself be directly subject to the provisions of this Section.

V. "Person" shall mean any individual, partnership, firm, public or private corporation, association, trust or estate.

W. "Rabies and Animal Control Authority" shall mean the person who has been designated and authorized by Orange County Commissioners Court to capture and confine animals found in violation of this Ordinance, or his lawfully delegated representative.

X. "Restraint" shall mean that the animal shall be secured by a leash or lead, or confined within the real property limits of its owner.

Y. "Vaccination" shall mean properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture, and the injection must be administered only by or under the direct supervision of a veterinarian who is licensed to practice in the state.

Z. "Veterinarian" shall mean a doctor of Veterinary Medicine who holds a valid license to practice his profession in the State of Texas.

AA. "Veterinary establishment" shall mean any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

BB. "Zoonotic Diseases" shall mean those diseases that may be transmitted from animals to man under normal conditions.

SECTION III. Designation of Orange County Rabies and Animal Control Authority

Pursuant to authorization of the V.T.C.A., Health and Safety Code, the Orange County Commissioners Court herein designates the Orange County Rabies and Animal Control Authority. The Orange County Rabies and Animal Control Authority shall be administered through the Orange County Sheriff's Department and the functions will be performed by an officer selected and trained as the Orange County Rabies and Animal Control Authority.

SECTION IV. Vaccinations

- A. No persons shall own, keep or harbor any dog or cat over four months of age within Orange County unless such dog or cat is vaccinated against rabies. In addition, the dog or cat must then be vaccinated against rabies every 12 months thereafter. The provisions of this Section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or a government operated or licensed animal shelter.
- B. All dogs and cats shall be vaccinated against rabies by a licensed veterinarian, in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization" published by the National Association of State Public Health Veterinarians.
- C. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag provided by the veterinarian to be permanently attached to a collar or harness worn at all times when the animal is off the premises of the owner.
- D. A person commits an offense if he fails or refuses to have each dog or cat of which he is the owner vaccinated against rabies in accordance with this ordinance. An offense under this Subsection is a Class "C" misdemeanor. (V.T.C.A., Health & Safety Code § 826.022).

SECTION V. Restraint of Dangerous, Vicious Animals or of Animals Creating a Nuisance

- A. All animals shall be kept under restraint in a humane manner. No owner shall fail to exercise proper care and control of his animals in order to prevent them from becoming a public nuisance, and the owner of every animal shall be held responsible for every action of such animal under the provisions of this Ordinance and Texas Law.
- B. Any dangerous animal or animal causing a nuisance shall be impounded as provided in SECTION VIII.

SECTION VI. Control of Dangerous Dogs

A. Requirements for Owner of Dangerous Dog:

Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

- (1) register the dangerous dog with the Orange County rabies and animal control authority;
- (2) restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
- (3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person.

B. Knowledge of Dangerous Dog:

For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

- (1) the owner knows of an unprovoked attack on a person that causes bodily injury and said attack occurs in a place other than an enclosure in which the dog was being kept and its construction was reasonably certain to prevent the dog from leaving said enclosure on its own, or
- (2) the owner is informed by the rabies and animal control authority that the dog is a dangerous dog.

The rabies and animal control authority may make this determination when a person reports an incident where a dog makes an unprovoked attack on a person as described above or when a dog commits unprovoked acts in a place other than an enclosure in which the dog was being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person. The Orange County animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the rabies and animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.

A person, not later than the 30th day after notification that he owns a dangerous dog, may appeal the determination of the rabies and animal control authority to a justice or municipal court of competent jurisdiction. An owner may appeal the decision of the justice or municipal court in the same manner as appeal for other civil cases.

C. Registration:

1. The rabies and animal control authority for Orange County shall annually register a dangerous dog if the owner presents proof of: liability insurance or financial responsibility, as required above; current rabies vaccination of the dangerous dog; and the secure enclosure in which the dangerous dog will be kept; and pays an annual registration fee of \$50.
2. The rabies and animal control authority shall provide a registration tag to any owner registering a dangerous dog. The owner must place the tag on the dog's collar.

- 3: If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the rabies and animal control authority for the area in which the new address is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee of \$25, the rabies and animal control authority shall issue a new registration tag to be placed on the dangerous dog's collar.
4. An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

D. **Attack by Dangerous Dog:**

(1) An offense under this section is a Class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor.

(2) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person who is (a) a licensed veterinarian; (b) personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or (c) personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

E. **Control of Dangerous Dog:**

(1) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with the SECTION VI(a) above. (requirements for owner of dangerous dog.)

(2) An offense under this section is a Class C misdemeanor.

SECTION VII. Destruction of Animals

It is hereby made the responsibility and duty of the Rabies and Animal Control Authority or its duly authorized agent to destroy any and all animals at large when said animals are, or appear to be, affected with rabies, or any other infectious, contagious, or dangerous disease, or when such animals are sick, injured, in great pain or in such condition as they may not be expected to live, or if all other reasonable means of capture have been exhausted; provided that any animal suspected of rabies shall be killed in such a manner as not to damage the brain.

It shall not be necessary to impound or advertise such animals by posting notice, notifying the owner or otherwise, but it shall be the duty of the authorized officer to destroy all such animals and, before disposing of same, to report to the Rabies and Animal Control Authority, who shall order the disposal of the carcass as he deems necessary. The authorized officer shall further submit a written report to the Rabies and Animal Control Authority containing the facts substantiating the officer's actions.

SECTION VIII. Impoundment

- A. It shall be the duty of the Rabies and Animal Control Authority or its duly authorized representative to apprehend, confine and impound all dogs, cats, and other animals as follows:
- (1) All dogs, cats or other animals infected or suspected of being infected with rabies and all animals exposed to, or suspected by the Rabies and Animal Control Authority of being exposed to an animal infected with rabies, including animals known to have been bitten by a rabid animal, whether the animal to be impounded is running at large or on a leash or whether it is confined to its owner's premises;
 - (2) Animals which have bitten a person or which have been exposed to rabies;
 - (3) Animals which are strays, at large, unrestrained and causing a nuisance.
- B. All animals picked up under this Section shall be impounded by the Rabies and Animal Control Authority in an animal shelter or other impounding facility and confined in a humane manner.
- C. Immediately upon impounding any animal, the Rabies and Animal Control Authority shall make a complete registry of the animal, entering the breed, color, and sex of such animal and the place and time of taking into custody.
- D. Also, immediately upon impounding any animal, the Animal Control Authority or its duly authorized agent shall make every reasonable effort to notify the owner and inform such owner of the conditions of redemption set out in SECTION IX of this ordinance. Animals bearing license tags or identification shall be held five (5) full days. Animals bearing no tags or identification shall be held three (3) full days. Animals not claimed by their owners within the above specified times shall become the property of Orange County.
- E. When any animal is found running at large and its ownership is verified by the Rabies and Animal Control Authority, the Authority may exercise the option of serving the owner with a notice of violation, in lieu of impounding the animal.
- F. Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

SECTION IX. Redemption

- A. Any animal impounded may be redeemed by the owner thereof within three (3) days if untagged and within five (5) days if appropriately tagged upon payment of an impoundment fee to be determined by the Commissioners Court. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, license fees, veterinarian fees, or pound fees.
- B. No animal required to be vaccinated under this Ordinance may be redeemed until the provisions for such vaccinated have been fulfilled.

SECTION X. Disposal of Quarantined and Impounded Animals

- A. The animal shelter or impounding facility is authorized to keep, return to owner, place for adoption with a reasonable party, or humanely dispose of or destroy, in such a manner as the Rabies and Animal Control Authority deems necessary under the circumstances, any animal that the owner or custodian does not take possession of as provided in SECTION V.
- B. It is expressly provided that in case of diseased, sick, injured or otherwise unhealthy animals impounded under these regulations, it shall be unnecessary to await the expiration of the impoundment or redemption period before disposing of such animals providing the Rabies and Animal Control Authority is notified and proper procedures for rabies control are enforced.

SECTION XI. Releasing or Dumping of Animals

- A. No person shall dump, release or abandon any animal on any property, whether public or private, within Orange County.
- B. Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal or any animal which has been dumped, released or abandoned, to remain on his property or allows or permits egress and/or ingress for seven (7) or more days without notifying the Rabies and Animal Control Authority shall hereby be deemed the owner of said animal.
- C. A person commits an offense if he intentionally abandons an animal in his custody. Such offense is punishable as a Class "A" misdemeanor under Section 42.09 of the Texas Penal Code.
- D. Disposition of domestic animals exposed to rabies:
 - (1) Unvaccinated animals which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be:
 - a) Humanely killed, or
 - b) If sufficient justification for preserving the animal exists, the exposed animal should be immediately vaccinated against rabies, placed in confinement and strict isolation for six (6) months and given a booster vaccination one (1) month prior to release from isolation.
 - (2) Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal should be:
 - a) Humanely killed, or
 - b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination and placed in confinement and strict isolation for three (3) months.
 - (3) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

SECTION XII. Rabies

- A. When a dog or cat which has bitten a human has been identified, the owner will be required to place the animal in quarantine. The ten (10) day observation period will begin on the day of the bite incident. The animal must be examined by a licensed veterinarian and placed in the animal control facilities specified for this purpose, if available. However, the owner of the animal may request permission from the veterinarian and the rabies and animal control authority for home quarantine if the following criteria can be met:
- (1) Secure facilities must be available at the home of the animal's owner, and must be approved by the rabies and animal control authority.
 - (2) The animal is currently vaccinated against rabies.
 - (3) The Rabies and Animal Control Authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the Rabies and Animal Control Authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing by a licensed veterinarian.
 - (4) The animal was not in violation of any laws at the time of the bite.
- B. If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to the Texas Department of Health certified laboratory for rabies diagnosis.
- C. No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a TDH laboratory for rabies diagnosis.
- D. The body of any animal that had died of rabies shall not be disposed of except as directed by the Orange County Health Department Director.
- E. Any person having knowledge of an animal bite to a human will report the incident to the Rabies and Animal Control Authority as soon as possible, but not later than twenty-four (24) hours from the time of the incident.
- F. The owner of the biting animal will place that animal in quarantine as prescribed in paragraph A. of this section under the supervision of the local health authority.
- G. Every veterinarian or other person who is called to examine or professionally attend any animal in Orange County suspected of having rabies or other zoonotic diseases, shall, within twenty-four (24) hours thereafter, report to the Orange County Health Director the following facts:
- (1) A statement of the location of such diseased animal.
 - (2) The name and address of the owner thereof; and
 - (3) The type and character of the disease.

SECTION XIII. Severability

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

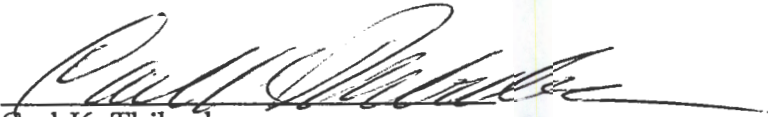
SECTION XIV. Applicability

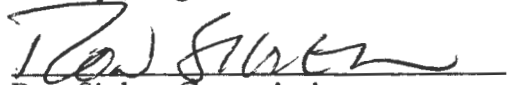
This Ordinance shall be in full force and effect on February 5, 1996.
at -----m-----

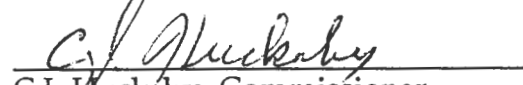
SECTION XV. Headings


Titles and headings of the sections herein shall be read as part of the Sections and used in determining the meaning thereof.

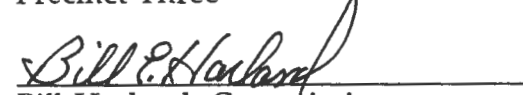
ORANGE COUNTY, TEXAS

By: 
Carl K. Thibodeaux
County Judge


Ron Sigler, Commissioner
Precinct One


C.J. Huckaby, Commissioner
Precinct Two


Donald Cole, Commissioner
Precinct Three


Bill Harland, Commissioner
Precinct Four

Attest:
