

## SMITH COUNTY ANIMAL CONTROL ORDINANCE

Pursuant to the authority of Chapter 826 of the Texas Health and Safety Code, the Smith County Commissioners Court adopts the following ordinances 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 family.
- B. "Animal" means any mammal, domesticated or wild. (Tex. Admin. Code Title 25, Part 1, Ch. 169.22)
- C. "Animal Control Authority," hereinafter Sheriff, means any peace officer of the State of Texas, officer of the Northeast Texas Public Health District (hereinafter "NETPHD"), animal control officer, or other entity that the Commissioners Court considers appropriate. Among other duties, the Sheriff shall enforce the provisions of this ordinance by issuing citations when deemed appropriate, and shall impound animals when appropriate.
- D. "Owner" means a person, or persons, who harbor, shelter, keep, manage, possess, or has any interest in any dog.
- E. "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 such enclosure was reasonably certain to the ordinary person 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 such enclosure was reasonably certain to the ordinary person 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.
- F. "Neighborhood" means:
  - (1) any subdivision as defined in Texas Local Government code Section 232.021 on which the filing of a plat is required under Chapter 232 of the Texas Local Government Code, regardless of whether a plat is actually filed or not; or

(2) any area specifically designated by Commissioners Court by Ordinance for inclusion in this ordinance. Such area should be included as a neighborhood under this ordinance when two or more of the property owners and residents of the proposed area request the area to be included in this ordinance, and after public hearing and approval by the Commissioners Court.

(3) an area included within the definition of a "neighborhood" may choose to "opt out" of this ordinance by petitioning Commissioners Court subject to public input and approval by the Commissioners Court.

- G. "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.
- H. "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**

1. 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.
2. Animal control officers shall wear distinctive uniforms as required by the Sheriff's office.
3. Animal control officers shall drive a marked vehicle which has red and blue light bars on top.
4. 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.
5. It is discretionary with the Sheriff whether to conduct patrols in the enforcement of the ordinance. In general, the enforcement of the ordinance will be complaint driven.
6. The Sheriff should respond to complaints regarding dogs that fall under this ordinance. It is discretionary with the Sheriff whether to respond to calls under this ordinance that do not pertain to dogs.

7. The order of response, if any, to calls under the ordinance, is discretionary with the Sheriff. With respect to animal control officers, final approval of decisions pertaining to response to calls should be made by the Sheriff.
8. All provisions of this ordinance shall be enforced by the Sheriff in the exercise of his or her discretion, with final approval of any decisions by an animal control officer to be made by the Sheriff.
9. All issues not specifically addressed in this ordinance and/or these guidelines are discretionary with the Sheriff, in compliance with all applicable laws, with final approval of any decisions by an animal control officer to be made by the Sheriff.

### **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 annually thereafter. 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 NETPHD, and no rabies vaccine shall be administered until after a ten-day observation period. (Tex. Admin. Code Title 25, Part 1, Ch. 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 (Tex. Admin. Code Title 25, Part 1, Ch. 169.29):
  - (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 Veterinarian.
- 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 section II, 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 NETPHD, 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. (Tex. Admin. Code Title 25, Part 1, Ch. 169.30)
- (1) Animals having a current vaccination must be revaccinated immediately and confined according to the method prescribed by the NETPHD for a period of not more than forty-five (45) days at a facility approved by the NETPHD.
  - (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 NETPHD, confine said animal. Such animal must be vaccinated immediately following exposure and isolated (as determined and approved by the NETPHD) 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 section III, G, (1) and (2) above fails to abide by those sections constitutes a separate offense.
- H. Any person having knowledge of an animal bite to a human shall report the incident to the NETPHD 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 NETPHD. (Tex. Admin. Code Title 25, Part 1, Ch. 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 NETPHD, and upon payment of any costs or fees if applicable.
- I. The Sheriff, animal control officer, and/or Sheriff's deputy will report any exposure to rabies or animal bite to a human to the NETPHD.
- J. Sheriff office, animal control officers, NETPHD, 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 Sheriff's Department on a case-by-case basis, at the discretion of the Sheriff.

**V. RESTRAINT OF DOGS REQUIRED**

- A. Each dog found to be in a neighborhood must be restrained by its owner, regardless of whether the dog or the owner reside 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 or is at heel under the verbal command of its owner.
  - (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 Sheriff. At his option, the Sheriff may elect to issue a citation to a person who violates Section V. of this ordinance without detaining or impounding the dog if the Sheriff deems the public health safety and welfare is no longer in eminent 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 Sheriff is authorized to detain or impound:

- (1) Any dog that is required to be restrained and is not restrained;
  - (2) Any dog that has bitten or scratched a person, or is reasonably suspected to be rabid, or is kept under conditions that could endanger the public health or health of any animal;
  - (3) Any dog that is a danger to animals; or
  - (4) Any dog not exhibiting evidence of being vaccinated.
- B. When a dog is impounded, the Sheriff authorized by the Commissioners Court shall collect the fees as approved by ordinance 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 Sheriff to retrieve the dog for impoundment, provided, however, that they notify the Sheriff as soon as possible of such confinement.
- D. Reasonable efforts shall be made by the Sheriff 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 any veterinarian bills incurred by the Sheriff for the welfare of the dog, and upon compliance with the vaccination provisions of this ordinance.
- F. Commissioners Court shall select and establish a place for impounding dogs under the provisions of this ordinance.
- G. 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.
- H. An owner who no longer wishes to have responsibility for a dog, or believes the dog to be ill or in an injured condition may sign a written waiver supplied by the Sheriff allowing the dog to be immediately euthanized

in a humane manner, providing that no dog that has bitten a human being shall be euthanized before the expiration of the ten (10) day quarantine period. The owner shall pay all such related costs of a quarantine and /or euthanization.

- I. 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 Sheriff.
- J. The Sheriff 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.
- K. All dogs picked up by the Sheriff under the impoundment provisions of the ordinance will be taken to a designated location in the County.
- L. If a dog picked up by the Sheriff has tags identifying its owner, the Sheriff will attempt to contact the owner. Upon impoundment, another attempt will be made to contact the owner.

#### **VIII. INJURED OR ILL DOGS**

- 1. Sheriff may impound for treatment of an injured or ill dog.

#### **IX. EUTHANASIA**

- 1. 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**

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

#### **XI. COSTS, FEES, AND/OR FINES**

- 1. If there is an identifiable owner of the dog, then the owner must pay all applicable fines, fees and/or costs associated with the enforcement of the ordinance.
- 2. 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,



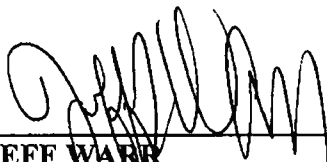
at a later time, an owner is identified, the County may seek reimbursement and/or collection of any applicable fees, costs and fines from said owner.

## **XII. MISCELLANEOUS**


- 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 ordinances by the Smith County Commissioners Court shall not prevent or jeopardize a corporate municipality within the County from establishing any rules and ordinances 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 Sheriff.
- G. Fines, costs, and/or 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 ordinances.
- H. Any 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.

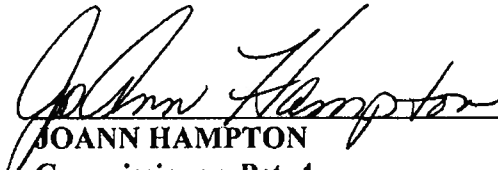
Adopted and Approved by the Smith County Commissioners Court on this 11<sup>th</sup> day of May, 2009.

  
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**JOEL R. BAKER**  
County Judge


  
\_\_\_\_\_  
**JEFF WARR**  
Commissioner, Pct. 1

Absent  
\_\_\_\_\_  
**WILLIAM MCGINNIS**  
Commissioner, Pct. 2

  
\_\_\_\_\_  
**TERRY PHILLIPS**  
Commissioner, Pct. 3

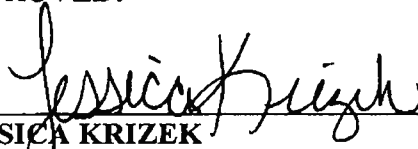
  
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**JOANN HAMPTON**  
Commissioner, Pct. 4

ATTEST:

  
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**JUDY CARNES**  
County Clerk



APPROVED:

  
\_\_\_\_\_  
**JESSICA KRIZEK**  
Civil Assistant District Attorney