

## ATASCOSA COUNTY ANIMAL CONTROL ORDER

ORDER NO. 2018-\_\_\_\_

**AN ORDER OF THE COMMISSIONERS COURT OF ATASCOSA COUNTY, TEXAS, TO ESTABLISH A RABIES CONTROL PROGRAM, REGULATE THE REGISTRATION AND RESTRAINT OF CERTAIN ANIMALS, DESIGNATE A LOCAL ANIMAL CONTROL AUTHORITY, REGULATE DANGEROUS DOGS, PROHIBIT DOGS RUNNING AT LARGE, PROHIBIT THE INHUMANE TREATMENT OF ANIMALS, AND PROVIDE PENALTIES PURSUANT TO CHAPTERS 821, 822, AND 826 OF THE TEXAS HEALTH & SAFETY CODE, AND THE ORDER HEREWITH.**

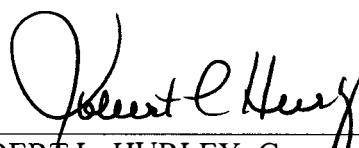
**WHEREAS**, the Commissioners Court of Atascosa County is authorized by Chapter 821 of the Texas Health & Safety Code to enact a local order relating to the unlawful restraint of dogs and to the treatment of animals; and

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

**WHEREAS**, the Commissioners Court of Atascosa County is authorized by The Rabies Control Act of 1981, specifically including the authority granted in Chapter 826 of the Texas Health & Safety Code, to enact a local order to require rabies vaccinations and other measures as a means to prevent the dangerous spread of rabies; and

**WHEREAS**, it is the intent of the Commissioners Court to enact a local order in an effort to protect the public health and safety of Atascosa County residents and encourage the humane treatment of animals;

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF ATASCOSA COUNTY, TEXAS**, that the following provisions be adopted this 10th day of September, 2018.



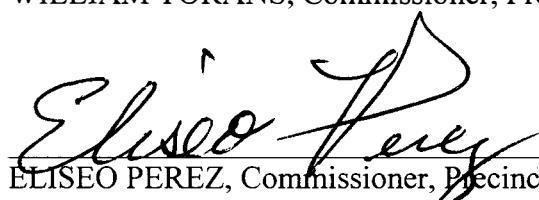
ROBERT L. HURLEY, County Judge



MARK GILLESPIE, Commissioner, Precinct 1



WILLIAM TORANS, Commissioner, Precinct 2



ELISEO PEREZ, Commissioner, Precinct 3

*Bill Carroll*

BILL CARROLL, Commissioner, Precinct 4

Attest:

*Diane Gonzales*

Diane Gonzales, County Clerk



## **ATASCOSA ANIMAL CONTROL**

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## **SECTION 1. INTENT AND AUTHORITY**

**Section 1.1 General Authority.** These regulations are adopted by the Commissioners Court of Atascosa County, Texas, acting in its official capacity as the governing body of Atascosa County, Texas as authorized by Chapters 821, 822 and 826 of the Texas Health & Safety Code.

**Section 1.2 Intent.** It is the intent of the Commissioners Court of Atascosa County, Texas to enact this Order to protect the public health and safety of the citizens of Atascosa County. This Order is further intended to encourage the humane treatment of animals and prevent cruelty to animals including the prevention of the spread of rabies and other zoonotic diseases, reducing the risk if injury to people and animals from animals kept in Atascosa County, Texas.

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

**Section 1.4 Municipal Ordinances to Supersede.** This Order 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 Order thereby preventing dual enforcement. In such cases, this Order will not be enforced within the corporate limits of the municipality. These rules and regulations shall apply to incorporated cities and towns that adopt these regulations and execute cooperative agreements with Atascosa County for their enforcement.

## **SECTION 2. DEFINITIONS**

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

**Section 2.1 Animal Control Authority.** The Atascosa County Animal Control Department. The terms “Animal Control Authority”, “Animal Control” and “Animal Control Department” are synonymous.

**Section 2.2 Animal Control Officer.** Any person(s) designated to perform the duties outlined in this Order.

**Section 2.3 Animal Dealer.** Any person, partnership, or corporation engaging in the business of buying, selling, or trading animals to others; including, but not limited to, sales of any animal at a roadside stand, booth, flea market, or other temporary site. This definition does not include non-profit animal shelters, rescue groups, or government operated shelters.

**Section 2.4 Animal Establishment.** Any facility or business that has custody or control of animals within Atascosa County, Texas; including, but not limited to, pet shops, grooming facilities, or commercial kennels. The term does not include veterinary or medical facilities or research facilities.

**Section 2.5 Animal Owner.** Any person(s), partnership, corporation, association, or legal entity that owns, keeps, or has custody or control of an animal for a period of ten (10) days or more, including the

person(s), partnership, corporation, association, or legal entity in control or having custody of, or feeding or harboring such animals.

**Section 2.6     Bite.** Any puncturing, tearing, or scratching of the skin caused by or suspected to be caused by an animal's teeth.

**Section 2.7     Bodily Injury.** Physical pain, injury, or illness, or any impairment of physical condition.

**Section 2.8     Cat.** Felis Catus.

**Section 2.9     Commissioners Court.** The Commissioners Court of Atascosa County, Texas.

**Section 2.10    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 an enclosure in which the dog is being kept; or
- b) commits unprovoked acts in a place other than an enclosure 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 2.11    Dog.** Canis Familiaris.

**Section 2.12    Domestic Animal.** Any member of the Felis Catus or Canis Familiaris species that is owned, kept, or controlled by a person.

**Section 2.13    Impound.** The apprehending, catching, trapping, netting, tranquilizing, confining, or if necessary, the destruction of any animal by an Animal Control Officer.

**Section 2.14    Inhumane Treatment.** Any treatment of an animal which deprives the animal of necessary sustenance, including necessary food, clean water and adequate shelter for protection from weather, or any treatment which constitutes torment, physical abuse, mutilation, or lack of proper veterinary care.

**Section 2.15    Livestock.** Includes exotic livestock as defined by section 161.001, Texas Agriculture Code.

**Section 2.16    Neutered/Spayed.** Any animal, male or female, rendered incapable of breeding or being bred.

**Section 2.17    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, but not limited to, any animal that:

- a) is "running at large" or stray;
- b) damages the property of anyone other than its owner;

- c) molests or intimidates pedestrians or passerby;
- d) chases vehicles or bicycles;
- e) excessively and repeatedly makes unprovoked disturbing noises, between the hours of 10.00 p.m. to 6:00 a.m., including, but not limited to, continuous and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to the neighbors or others in close proximity to the premises where the animal is kept or harbored; and
- f) attacks other domestic animals.

**Section 2.18 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 the owner's premises 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 able to control it with a leash or by verbal commands.

**Section 2.19 Running at Large.** Not completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal 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, if required by these regulations; and
- e) conforms to the requirements for enclosures established by the Atascosa County Animal Control Authority.

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

**Section 2.22 Spay or neuter.** An animal which has been made sterile by either castration or removal of ovaries.

**Section 2.23 Stray.** Any animal subject to these regulations that is roaming without physical restraint and whose ownership is not readily ascertainable shall be deemed a stray and a nuisance. 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 Unlawful Restraint.** To keep a dog outside and unattended under certain circumstances by use of a restraint that unreasonably limits the dog's movements.

**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, which creates a rebuttable presumption, shall apply whether or not the wild animal has been confined for any duration in any fashion.

### **SECTION 3. ATASCOSA COUNTY ANIMAL CONTROL**

**Section 3.1 Animal Control Department.** The Commissioners Court hereby establishes the Atascosa County Animal Control Department to maintain an animal control program, to employ animal control officers and such other employees as shall be determined necessary by the Commissioners Court, and to enforce the provisions of these regulations.

**Section 3.2 Authority to enter into Interlocal Agreements.** Atascosa County, for the benefit of the Atascosa County Animal Control Department, may, with the approval of Commissioners Court, enter into an interlocal agreement with a municipality within Atascosa County, for the care, custody and final disposition of all animals surrendered to the Animal Control Facility. This shall only be performed after an interlocal agreement has been approved by both parties.

**Section 3.3 Responsibility of Atascosa County Animal Control Authority.** The Atascosa County Animal Control Department shall enforce this Order in all unincorporated areas of Atascosa County and only in incorporated areas with a total population of less than 1,000 as reported by the latest U.S. census survey, and that do not have an established animal control authority, and only by interlocal agreement.

**Section 3.4 Chief Investigator of Atascosa County Animal Control.** The Commissioners Court hereby creates the position of Chief Investigator of Animal Control. Such person shall report directly to the Commissioners Court and will be responsible for supervision of day to day operations within the Atascosa Animal Control Facility. The Chief Investigator of Animal Control will have complete

discretion on the management and final disposition of all animals that are housed within the Animal Control Facility. It shall be the duty of the Chief Investigator of Animal Control to report, in writing, to the Commissioners Court, once each month, the total number of animals impounded, the total number of dogs and cats redeemed or sold to private parties, the total number of dogs and cats humanely disposed of under the provisions of these regulations, and any other relevant information related to the daily operations of the Atascosa Animal Control Facility. Such report shall be approved and filed with the Commissioners Court monthly.

**Section 3.5 Local Rabies Control Authority.** As authorized by section 826.017 of the Texas Health & Safety Code, and under these regulations, the Chief Investigator of the Atascosa County Animal Control Department is hereby designated as the Local Rabies Control Authority.

**Section 3.6 Animal Control Officer.** The Commissioners Court hereby creates the position of Animal Control Officer to assist with the following:

- a) formation of rules and procedures to be approved by Commissioners Court for the enforcement of this Order; and
- b) supervising the implementation, administration, and enforcement of this Order

**Section 3.7 Duties of Animal Control Officer.** An Animal Control Officer or an authorized designee will be responsible for, but not limited to, the duties set forth below, and for carrying out provisions of the State laws pertaining to control and eradication of rabies.

- a) Animal bites - receive and investigate reports of animal bites within Atascosa County in a timely manner. Bites occurring within municipalities having animal control ordinances will be referred to the proper municipal authority.
- b) Management of domestic animal population - capture and trap domestic animals that are in violation of this Order.
- c) Quarantine - perform immediate and proper quarantine procedures for animals suspected of having rabies. Animals may be placed in an animal shelter or veterinary hospital approved for that purpose by the Texas Department of State Health Services. An owner of an animal may also request permission for home quarantine, subject to approval by an Animal Control Officer.
- d) Destruction - perform immediate, if warranted, proper and humane destruction of certain animals described in this Order.
- 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 Commissioners Court.
- g) Investigations - Receive and investigate all cases of nonlivestock animal cruelty as defined in section 42.092 of the Texas Penal Code- Cruelty to Nonlivestock Animals.

**Section 3.8 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 an Animal Control Officer from the official discharge of the duties herein prescribed. Any person who violates a provision of Section 3 shall be guilty of a Class "B" misdemeanor as defined in section 38.15 of the Texas Penal Code-Interference with Public Duties.

## **SECTION 4. LICENSING AND REGISTRATION**

No registration of dogs or cats will be required. It is encouraged to have identification tags on dogs and cats.

## **SECTION 5. RABIES CONTROL PROGRAM**

**Section 5.1 Rabies Vaccination.** No person shall own, keep or harbor within the County any dog or cat over the age of three (3) months unless such dog or cat has a current rabies vaccination. All animals must receive a second rabies vaccination within one (1) year from the date of receiving their first vaccination, regardless of the type of vaccine used or the age at which the animal was initially vaccinated. After the second rabies vaccination, a rabies vaccination is required annually thereafter and in accordance with state rules. 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.

The information contained in the certificate or record may not include the social security number or driver's license number of the owner of the vaccinated animal.

**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. In the

event of loss or destruction of the original tag, 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 shall be purchased from the originally issuing veterinarian.

**Section 5.4 Proof of Vaccination.** It shall be unlawful for any person who owns a vaccinated dog or cat to fail or refuse to exhibit a copy of the certificate of vaccination upon demand from an Animal Control Officer or a designee charged with the enforcement of this Order.

**Section 5.5 Unvaccinated Animal.** It shall be unlawful for any person to own, keep or harbor a dog or cat which has not been vaccinated against rabies, as provided herein, which cannot be identified as having a current vaccination certificate.

**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 Atascosa County Animal Control Authority.
- b) Any such animal shall be impounded and placed in isolation in a facility approved by the Atascosa County 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 contacted 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, the animal shall be humanely destroyed.
- e) In addition to any impound fees, and costs directly associated with the examination, treatment, and/or vaccination of the animal shall be paid prior to release of the animal.

**Section 5.7 Penalty for Violation.**

- a) Any person who violates a provision of this Section is guilty of a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).
- b) If on the trial of an offense under this Section the court finds that the person has been previously convicted of an offense under this Section, the current offense shall be a Class "B" misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00) and/or imprisonment for a period not to exceed one hundred eighty (180) days.
- c) 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 Atascosa County Animal Control Authority or a corporate municipality of jurisdiction as soon as possible.

**Section 6.2 Investigation.** The Atascosa County Animal Control Authority shall investigate all animal bite incidents reported within the unincorporated areas of Atascosa County but not within incorporated municipalities which have jurisdictional responsibility to investigate animal bites.

**Section 6.3 Reports of Rabies.** The report must include the following:

- a) Name and address of the victim or bitten animal and of the animal's owner or custodian, if known; and
- b) any other information that may help in locating the victim, bitten animal, or the animal causing the bite.

**Section 6.4 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 Atascosa County Animal Control Authority.

**Section 6.5 Quarantine.** The owner must submit for quarantine an animal, or submit the animal's brain for testing, that is reported to be rabid or to have exposed an individual or domesticated animal to rabies; or that the owner knows or suspects is rabid or to have exposed an individual or domesticated animal to rabies.

**Section 6.6 Penalty for Violation.** Any person who violates a provision of this Section may be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

## **SECTION 7. RABIES 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 confinement at the owner's expense.
- b) Refusal to produce said animal constitutes a violation of this Section
- c) The ten (10) day observation period begins on the day the animal is produced for quarantine.
- d) The animal must be placed in an animal control facility or a veterinary hospital or such other place as approved for that purpose by the Texas Department of Health and the Local Rabies Control Authority and shall be examined by a licensed veterinarian within twenty-four (24) hours from time of quarantine.

**Section 7.2 Owner Refuses Quarantine.** If the biting animal cannot be maintained in a secure quarantine or if the owner chooses not to pay for the quarantine, the animal shall be humanely destroyed, and the brain shall be submitted to a Texas Department of Health certified laboratory for rabies diagnosis, at the owner's expense.

**Section 7.3 Wild Animals.** No wild animals will be placed in quarantine. All wild animals involved in biting incidents shall be humanely destroyed in such a manner that the brain is not mutilated and the brain shall be submitted to a Texas Department of Health 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 punishable by a fine of not more than five hundred dollars (\$500.00).
- b) If it is shown at trial that a person has been previously convicted of a violation of a provision of Section 7, 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**

**Section 8.1 Dogs Prohibited from Running at Large.**

- a) The owner or custodian of a dog shall restrain the animal and prevent it from running at large. Each unrestrained, unowned, or stray dog or cat is hereby declared a public nuisance. For purposes of this Section, "restrained" shall mean that the dog is: physically restrained by a leash, fence, pen, or other device; or physically located on the property of the owner or custodian.
- b) When the owner of a dog running at large is determined and the owner can be located, the animal shall be returned to its owner and the owner may be cited for violation of this Order.
- c) If the ownership is in question or if the animal is a stray, the animal shall be impounded for seventy-two (72) hours, not counting weekends and holidays. An owner may claim the dog within this time period after paying all incurred costs and impoundment fees. Upon failure of the owner to claim the dog during the impound period, the Animal Control Officer may order the animal be placed for adoption or humanely destroyed without compensation to the owner.

**Section 8.2 Elimination of Stray Animals**

- a) When practical, the Animal Control Officer may impound any animal subject to these regulations that is found to be a stray.

- b) The animal may be impounded for seventy-two (72) hours, not counting weekends and holidays.
- c) Sick or injured animals wearing no apparent identification through which ownership can be determined may be kept 0 to seventy-two (72) hours at the discretion of the Animal Control Officer.
- d) If, by rabies tags or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall use his or her best efforts to immediately, upon impoundment, notify the owner by direct contact, telephone, mail, or other reasonable means.
- e) Subject to citation for violation of this Order, an owner may claim the animal within the impoundment period after paying all incurred cost and impoundment fees.
- f) Upon failure of the owner to claim the animal during the impoundment period, the Animal Control Officer may order the animal to be placed for adoption or humanely destroyed without compensation to the owner.

### **Section 8.3      Animal Creating a Nuisance**

- a) It shall be a public nuisance and unlawful for an owner to intentionally, knowingly, or recklessly keep, possess, or control any animal subject to these regulations in a manner that:
  - 1) causes the animal to excessively make disturbing noises between the hours of 10:00 p.m. to 6:00 a.m., including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 2) causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 3) causes unsanitary conditions in enclosures or surroundings in which the animal is kept or harbored;
  - 4) damages the property of an individual other than its owner or trespasses on private or commercial property; or
  - 5) is offensive or dangerous to public health, safety, or welfare by virtue of the number and/or type of animal.
- b) The animal may be impounded for seventy-two (72) hours, not counting weekends and holidays.

- c) Subject to citation for violation of this Order, an owner may claim the animal within the impoundment period after paying all incurred cost and impoundment fees.
- d) Upon failure of the owner to contact the Animal Control Authority during that period, the Animal Control Officer may order the animal be placed for adoption or humanely destroyed without compensation to the owner.
- e) Upon contact with the Animal Control Authority, reasonable arrangements may be made to continue to impound the animal, at the owner's expense, while a plan to eliminate the nuisance is devised.

**Section 8.4      Penalty for Violation.**

Any person who violates a provision of Section 8 shall be guilty of a Class "C" misdemeanor.

**SECTION 9. TREATMENT OF ANIMALS**

**Section 9.1      Prohibition of Inhumane Treatment.** Any inhumane treatment of any type of animal shall be deemed a nuisance. It shall be unlawful for a person to intentionally, knowingly, recklessly or with criminal negligence, by act or omission, treat an animal inhumanely.

- a) No person shall torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat or needlessly mutilate or kill an animal or carry any animal upon any vehicle, or otherwise, in a cruel or inhumane manner, or procure the same to be done within the County.
- b) It is unlawful for any person to abandon an animal within the County limits.
- c) It shall be unlawful for the owner of animal to fail to provide the animal with adequate amounts of wholesome and nutritious food, water in sufficient quantities, adequate ventilation, adequate spaces for exercise, shelter that protects the animal from the elements (sun, wind, rain, freezing temperatures, etc.), veterinary care when needed to prevent suffering, and overall humane treatment and care.
- d) Pursuant to section 42.10 of the Texas Penal Code, it shall be unlawful for any owner to cause or permit any dog fight or other combat between animals or between humans and animals.
- e) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety.

**Section 9.2      Seizure.** Any Animal Control Officer is hereby authorized to obtain a seizure warrant from the Justice of the Peace or other court of competent jurisdiction to seize any animal that the officer has probable cause to believe is being cruelly treated and in compliance with Section 821.022 of the Texas Health & Safety Code. The officer executing the warrant shall seize the animal and give written

notice to the owner of the time and place of the hearing. A hearing must be held within ten (10) days of the date the warrant is issued.

**Section 9.3 Public Auction.** An animal found by the court to have been cruelly treated may be sold at public auction, given to an animal rescue organization, placed for adoption, or the animal may be ordered to be humanely destroyed. At a public auction, a bid by the animal's former owner or that person's agent shall not be accepted.

**Section 9.4 Penalty for Violation.** A person who mistreats an animal is subject to prosecution in County Court or District Court under Section 42.09 of the Texas Penal Code (relating to livestock) or Section 42.092 of the Texas Penal Code (relating to non-livestock) or Section 42.10 of the Texas Penal Code (relating to dog fighting). Violations range from Class "A" misdemeanors to third degree felonies.

## **SECTION 10. UNLAWFUL RESTRAINT OF DOGS**

### **Section 10.1 Unlawful Restraint.**

- a) An owner may not leave any dog outside and unattended by use of a restraint that unreasonably limits the dog's movement. A restraint unreasonably limits a dog's movement if the restraint:
  - 1) uses a collar that is pinch-type, prong-type, choke-type or that is not properly fitted to the dog;
  - 2) is a length shorter than the greater of five times the length of the dog from nose tip to base of tail, or ten feet;
  - 3) is in an unsafe condition; or
  - 4) causes injury to the dog.
- b) Exception to division (a) shall be:
  - 1) a dog restrained in compliance with the requirements of a camping or recreational area as defined by federal, state or local authority or jurisdiction;
  - 2) a dog restrained for a reasonable period, not to exceed three(3) hours within a twenty-four (24) hour period and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
  - 3) during a lawful animal event, veterinary treatment, grooming, training or law enforcement activity; or
  - 4) such that is required to protect the safety or welfare of a person or the dog, if the dog's owner or handler remains with the dog throughout the period of restraint.

- c) A person restraining a dog with a chain or tether shall attach the chain or tether to a properly fitting collar or harness worn by the dog. A person may not wrap a chain or tether directly around a dog's neck. A person may not restrain a dog with a chain or tether that weighs more than 1/18 of the dog's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.
- d) A person may not restrain a dog in a manner that does not allow the dog to have access to necessary shelter and water.
- e) A person may not restrain a dog in a manner that allows the dog to move outside the person's property.

**Section 10.2 Penalty for Violation.** Any person who violates a provision of Section 10 shall be guilty of a Class "C" misdemeanor.

## **SECTION 11. OWNERSHIP OF DANGEROUS DOGS**

### **Section 11.1 Declaration of a Dangerous Dog.**

- a) The Animal Control Authority may find and declare a dog to be dangerous or potentially dangerous if the Animal Control Officer has probable cause to believe that a dog committed any acts described in the definition of Dangerous Dog (Section 2.10) 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 Atascosa Animal Control Facility, 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, the Animal Control Officer shall investigate the complaint and determine if a dog is considered dangerous as defined in Section 2.11 of this Order.

### **Section 11.2 Notification of Declaration of a Dangerous Dog.**

- a) Within five (5) working days of declaring any dog dangerous or potentially dangerous, the Animal Control Officer will notify, by certified mail, return-receipt requested, the owner of the dog(s) designated as a Dangerous Dog. The Animal Control Officer 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) Affidavit by the Animal Control Officer of deposit of correctly addressed, return-receipt notice into the United States mail;

- 2) Return of an executed return-receipt; or
- 3) Affidavit by the Animal Control Officer of posting of the notice at the premises where the dog was harbored.

c) An owner may appeal this declaration to the Justice of the Peace 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 the Animal Control Officer's decision becoming final. Further appeals may be pursued in the same manner as appeals in civil cases.

### **Section 11.3 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 the Atascosa Animal Control Authority. The result of any test will be presented at the determination hearing and be taken into consideration for the final determination. The owner shall be responsible for any cost incurred for any test to be conducted and fees of the animal behaviorist to analyze the test, or any other related expense.
- b) The owner shall be notified of the hearing by placing the notice in the United States mail, certified, return receipt requested, addressed to the owner. Failure of the owner of the dog to appear at the determination hearing shall result in the Animal Control Officer'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 at the Atascosa Animal Control Facility. The cost of securing the dog pending the determination of the hearing shall be borne by the owner.
- c) The judge of a court of competent jurisdiction shall determine by a preponderance of the evidence whether to declare the dog a Dangerous Dog under this Section 11 based upon evidence, affidavits, and testimony presented at the time of the hearing.
- d) 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 11.4 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 11.5 Exemption. 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 had 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 11.6 Confiscation.**

- a) Until the owner of a dog determined to be dangerous has met the requirements placed on that owner by section 822.042 of the Texas Health & Safety Code and this Order, the Animal Control Officer or a designee shall confiscate the dog, whether it be found on public or private property.
- b) The Animal Control Officer shall have no authority to confiscate 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 only if the Dangerous Dog is located within a residence.
- 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 confiscated shall be ordered sheltered by the Animal Control Officer for a period of seventy-two (72) hours, not counting weekends and holidays, to allow the owner an opportunity to claim the dog upon satisfaction of the provision of section 822.042 and 826.00 of the Texas Health & Safety Code and this Order. 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 of the above provisions.
- g) A Dangerous Dog which, after due process, becomes the property of the Atascosa County Animal Control Authority, will not be eligible for adoption and will be humanely destroyed once all appeals have been exhausted.

#### **Section 11.7 Requirements for Ownership of a Dangerous Dog.**

- a) An owner of a Dangerous Dog must:
  - 1) register the Dangerous Dog with the Atascosa County Animal Control Authority for the area in which the dog is kept;
  - 2) pay an annual fee of \$100.00 to the Atascosa County Animal Control Authority;
  - 3) 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 Atascosa County Animal Control Authority;
  - 4) 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;
  - 5) spay or neuter the Dangerous Dog; and
  - 6) Obtain and maintain 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.
- b) If an owner of a registered Dangerous Dog sells the dog or moves the dog to a new address, the owner, not later than 14<sup>th</sup> day after the sale or the move, shall notify the Animal Control Authority, in writing, of the name, address, and telephone number of the proposed new owner, the proposed new location of the dog, and the name and description of the dog. The owner shall, in addition to the above, notify any new owner or custodian of a Dangerous Dog, in writing, regarding the details of the dog's record and the terms and conditions for confinement and control of the dog. The transferring owner shall also provide the Animal Control Authority with a copy of the notification to the new owner of his or her receipt of the original notification and acceptance of the terms and conditions.
- c) If a Dangerous Dog should die, the owner shall notify the Animal Control Authority no later than twenty-four (24) hours thereafter and, upon request, shall produce the animal for verification or satisfactory evidence of the dog's death.
- d) An owner of a registered Dangerous Dog shall notify the Animal Control Authority of any attacks the Dangerous Dog makes against people or animals within twenty-four (24) hours of the attack or as soon as such attack is known by any person to have occurred.

- e) If a Dangerous Dog escapes, the owner shall immediately notify the Animal Control Authority and make every reasonable effort to recapture the escaped dog to prevent injury and/or death to humans or animals.
- f) If a dog is registered as a “Dangerous Dog”, or is known by another name with the same or similar meaning, in any jurisdiction and the owner of the dog moves the dog to an address located in an area of Atascosa covered by these regulations, the owner shall, within fourteen (14) days of moving to such location, register the Dangerous Dog with the Atascosa Animal Control Authority.

**Section 11.8 Limitation of Ownership of Dangerous Dogs.**

- a) Only one (1) Dangerous Dog may be owned per household.
- b) No more than two (2) Dangerous Dogs may remain at any residence for more than any seven (7) day period.

**Section 11.9 Penalty for Violation- Ownership of Dangerous Dogs**

- a) Any person who violates a provision of this Section may be guilty of a Class “C” misdemeanor punishable of a fine of not more than five hundred dollars (\$500.00).
- b) Each day that a person owns a Dangerous Dog in violation of this Section shall constitute a separate offense.
- c) An offense under this Section is a Class “B” misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00) and imprisonment of no more than one hundred eighty days if it is shown on trial of the offense that the defendant has previously been convicted under this Section.

**Section 11.10 Penalty for Violation- Attack by a Dangerous Dog against a person.**

- a) A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog’s enclosure and causes bodily injury to another person.
- b) An offense under this Section is a Class “C” misdemeanor and is punishable by a fine not to exceed (\$500.00), unless the attack causes serious bodily injury or death. (See Section 11.11 below)
- c) If it is shown at 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.
- d) In addition to criminal prosecution, a person who commits an offense under this Section is liable for a civil penalty not to exceed \$10,000.00. The Atascosa County may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this

subsection shall be retained by the County to be used to defray the cost of administering this Order.

- e) If a person is found guilty of an offense under this Section and the offending dog caused death or bodily injury, the Court may order the Dangerous Dog destroyed by the Animal Control Authority in a humane manner.

## **SECTION 12. DOGS CAUSING DEATH OR SERIOUS BODILY INJURY TO A PERSON**

### **Section 12.1    Attack by dog Causing Death or Serious Bodily Injury**

A person commits an offense if the person is the owner of a dog and the person:

- a) With criminal negligence, as defined by Section 6.03, Texas Penal Code, fails to secure the dog and the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or motor vehicle and that causes serious bodily injury, as defined by Section 1.07, Texas Penal Code, or death to the other person.
- b) knows the person is a Dangerous Dog by learning in a manner described by Section 822.042(g) of the Texas Health and Safety Code that the person is the owner of a Dangerous Dog, and the Dangerous Dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure and that causes serious bodily injury or death to the other person.

### **Section 12.2    Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person**

- a) A justice court or county court shall order the Animal Control Office to seize a dog and shall issue a warrant authorizing the seizure:
  - 1) on the sworn complaint of any person, including the County Attorney of Atascosa County or a Peace Officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
  - 2) on a showing of probable cause to believe that the dog caused the death of or serious bodily injury to the person as stated in the complaint.

- b) The Animal Control Officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

### **Section 12.3    Hearing**

- a) The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the tenth (10th) day after the date on which the warrant is issued.

- b) The court shall give written notice of the time and place of the hearing to:
  - 1) the owner of the dog or the person from whom the dog was seized; and
  - 2) the person who made the complaint.
- c) Any interested party, including the County Attorney, is entitled to present evidence at the hearing.
- d) The court shall order the dog destroyed if the court finds that the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:
  - 1) its owner;
  - 2) the person from whom the dog was seized; or
  - 3) any other person authorized to take possession of the dog.
- e) The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:
  - 1) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and: a) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and b) the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - 2) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred.
  - 3) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
  - 4) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
  - 5) the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

**Section 12.4 Destruction of Dog.** The destruction of a dog under this section must be performed by: 1) a licensed veterinarian; 2) personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or 3) personnel of Animal Control who are trained in the humane destruction of animals.

**Section 12.5 Provocation or Location of an Attack Irrelevant.** Except as provided by Subsection 12.3(E), this Section applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.

**Section 12.6 Penalty for Violation.**

- a) An offense under this Section is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.
- b) If a person is found guilty of an offense under this Section, the court may order the dog destroyed by any person listed in Section 822.004 of the Texas Health and Safety Code.
- c) A person who is subject to prosecution under this Section and under any other law may be prosecuted under this Section, the other law, or both.

**SECTION 13. IMPOUNDMENT FACILITIES AND FEES**

**Section 13.1 Impounded Animals.** Any animal that poses a threat to public health and safety or any animal that has been cruelly treated or abused may be impounded.

**Section 13.2 Animal Facilities.** The Commissioners Court may enter into contracts or agreements with public or private entities or animal shelters to provide for the impoundment of animals under this Order or to carry out activities required or authorized by this Order. Any animal adopted from an animal facility that has entered into a contract with Atascosa County shall require that all animals adopted be spayed or neutered within forty-five (45) days of the adoption.

**Section 13.3 Impoundment Fees.** An owner of an animal that has been impounded under any section of this Order shall pay all applicable impoundment fees, as established and approved by the Atascosa County Commissioners Court, before retrieving the animal.

**Section 13.4 Impoundment Records.** The Animal Control Officer shall keep adequate public record of all impounded animals, including a description of the animals impounded, the date of impoundment, the date of sale of an animal, if applicable, as well as the amount realized from the sale, the fees and expenses due for impounding and keeping the animal, the name of the owner of the animal, if known, and the name of the purchaser of the animal.

**SECTION 14. ANIMAL ESTABLISHMENTS AND ANIMAL DEALERS**

**Section 14.1 Permits.** All Animal Establishments and Animal Dealers, as defined herein, shall, in addition to the other requirements of this Order, comply with the minimum standards of this Section 14. Persons wishing to operate an Animal Establishment or to become an Animal Dealer within the County of Atascosa must apply in writing to the Atascosa Animal Control Authority, who will issue a permit if all of

the state and federal requirements are met. Such permit must be renewed annually with the Atascosa Animal Control Authority.

- a) It shall be a violation for any business or person to sell or offer for sale, without first obtaining an Animal Establishment or Animal Dealer permit, an animal, unless such activity is authorized by some other section of this Order.
- b) It shall be a violation for any Animal Establishment or Animal Dealer to refuse, upon request by a certified law enforcement officer or Animal Control Officer, to make his/her animal(s), premises, facilities, equipment, and any necessary permit or registrations, available for inspection during the establishment's regular business hours or at any other reasonable hour, for the purposes of ascertaining compliance with the provisions of this Section 14.

**Section 14.2 Advertisements.** All advertisements for the sale of animals shall include publication of the Animal Establishment's or Animal Dealer's permit number.

**Section 14.3 Breeding.** All Animal Dealers who are breeding a domestic animal for the sale or trade of offspring shall have the breeding female(s) certified as healthy by a licensed veterinarian prior to the sale of any of the animal's offspring.

**Section 14.4 Violations.** Failure to meet these standard, or violation of this Section 14 in any other way, shall be grounds for the issuance of a citation, subjecting the owner to penalties provided in this Section, and/or revocation of the owner's Animal Establishment or Animal dealer permit at the Atascosa Animal Control Officer's discretion.

**Section 14.5 Penalty for Violation.** Any person who violates a provision of Section 14 may be guilty of a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollar (\$500.00).

**Section 14.6 Exceptions.** The following classifications need not apply for a permit or pay the annual permit fee:

- a) licensed veterinarian clinics;
- b) research facilities licensed by governmental agencies;
- c) an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency that trains or uses the dogs for law enforcement of corrections purposes; or
- d) a licensed trainer who trains service animals to assist the physically handicapped.

## SECTION 15. ADVISORY COMMITTEE

**Section 15.1 Appointment of Committee.** The Atascosa County Commissioners Court shall appoint an advisory committee to assist with making recommendations with regard to animal control policy to the

Atascosa County Commissioners Court and to assist in ensuring that the Atascosa Animal Control Facility is in compliance with all applicable statutory requirements.

**Section 15.2 Composition of Committee.** The advisory committee shall be composed of at least one licensed veterinarian, one county official, one representative from an animal welfare organization, and one employee of the Atascosa Animal Control Facility.

**Section 15.3 Annual Requirements.** The advisory committee shall meet at least three times a year.

## **SECTION 16. CONFIDENTIALITY AND NONDISCLOSURE**

Information contained in a rabies vaccination certificate, in any record compiled from the information contained in one or more certificates, in any county registry provided for herein, or as compiled in compliance with another provision of this Order, that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered animal, is confidential and is not subject to disclosure under the Public Information Act, Chapter 522, Texas Government Code. The information may only be disclosed to a governmental entity or to a person that under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety.

## **SECTION 17. MISCELLANEOUS**

**Section 17.1 Severance Clause.** If any section, sentence, or clause of this Order is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Order.

**Section 17.2 Necessary Contract.** The Commissioners Court or its designee may enter into any contracts or agreements with public or private entities that are necessary to effectuate this Order.

**Section 17.3 Effective Date.** This Order shall become effective following passage by a majority vote of the Atascosa County Commissioners Court and upon the opening of the Atascosa County Animal Control Facility.