

POLK COUNTY

RABIES AND ANIMAL CONTROL ORDINANCE

SECTION I. AUTHORITY AND PURPOSE

- 1) These rules are promulgated pursuant to and in conformity with statutory authority granted to the Polk County Commissioners Court pursuant to **Chapters 821, 822 and 826 of the Texas Health & Safety Code**. It is the purpose of the Commissioners Court of Polk County to impose reasonable and uniform rules for rabies control and restraint of dogs and cats in Polk County.
- 2) If these rules are in conflict with any city ordinance, it is the city ordinance that takes precedence.

SECTION II. LOCAL RABIES CONTROL AUTHORITY

- 3) The Polk County Sheriff's Office is hereby designated as the Local Rabies Control Authority for purposes of these rules.
- 4) The Local Rabies Control Authority or his designee shall have the duty to enforce:
 - (a) The Rabies Control Act of 1981, **TX. HEALTH & SAFETY CODE § 826.001**, et seq. and amendments thereto;

SECTION III. VACCINATIONS

- 5) The owner or custodian of every dog or cat shall have the dog or cat vaccinated against rabies as required by the Rabies Control Act of 1981, Chapter 826, Subchapter C. of the Texas Health & Safety Code, and amendments thereto. Failure to vaccinate a dog or cat against rabies shall subject the owner or custodian of the unvaccinated animal to a fine and punishment prescribed by **§ 826.022 TX. HEALTH & SAFETY CODE**.

SECTION IV. RABIES CONTROL AND QUARANTINE

- 6) When a dog or cat that has bitten a human has been identified, the owner or custodian shall place the animal in quarantine, as required by the Rabies Control Act of 1981, **§ 826.042 TX. HEALTH & SAFETY CODE**, and amendments thereto.
- 7) When an animal that has bitten a human has been identified, the custodian must place that animal in quarantine or submit its brain for testing. The costs of quarantine are borne by the custodian.
- 8) A custodian must submit for quarantine an animal: that is reported to be rabid or to have exposed an individual to rabies; or that the custodian knows or suspects is rabid or to have exposed an individual to rabies.
- 9) A Quarantine shall be conducted as required by the Rabies Control Act, set out in Chapter 826 of the Texas Health and Safety Code, and the Regulations and Regulations adopted pursuant to that statute, as amended.

SECTION V. RESTRAINT AND IMPOUNDMENT

- 10) All dogs and cats shall be kept under restraint in accordance with the applicable provisions of the Texas Health and Safety Code
- 11) Dogs may be unrestrained when used for ranching/hunting/farming/guarding on parcels larger than 10 acres and with the permission of the landowner.
- 12) The owner or custodian of every dog or cat shall be held responsible for the behavior of his animal and, thereby, responsible for any violation of these rules or applicable provisions of Chapters 822 and 826 of the Texas Health & Safety Code.
- 13) The Local Rabies Control Authority or his designee shall be authorized by this ordinance and the applicable provisions of the Texas Health and Safety Code, to catch, confine and impound the following:
 - (a) All stray dogs and cats whether or not vaccination or tags are displayed;
 - (b) Any animal, whether domesticated, wild, or stray, which has bitten or scratched a person, has bitten or scratched another animal, or is suspected of having rabies or having been exposed to rabies; and
 - (c) Any dangerous dog that is improperly secured or unregistered, as required.
 - (d) All animals picked up under these rules shall be impounded in the impounding facility.
- 14) It shall be the duty of the Animal Control Authority or his designee to deposit all living animals to be impounded with the impounding facility.
- 15) The owner or custodian of any impounded dog or cat may claim and redeem their animal prior to its sale, adoption, or other disposition during regular business hours of the impounding facility. No animal may be claimed or redeemed without proof of current vaccination or payment of applicable vaccination fees. Fees for redemption of animals shall not exceed those set

out in the fee schedule attached to these rules and incorporated herein for all purposes; provided, however, these fees may be changed from time-to-time with approval of the Commissioners Court.

- 16) Failure to comply with these rules on animal restraint shall subject the owner or custodian of the unrestrained animal to citation and penalty in accordance with **TX. HEALTH & SAFETY CODE § 826.034**.
- 17) While the quarantine is in effect, the rules adopted by the executive commissioner supersede all other applicable ordinances or rules applying to the quarantine area and apply until the department or its designee removes the quarantine by declaration or until the rules expire or are revoked by the executive commissioner.

SECTION VI. UNLAWFUL RESTRAINT OF DOGS

- 18) A person who owns or has custody or control of a dog and who uses a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system shall comply with Chapter 821, Subchapter D, sections 821.076 through 821.079 of the **Texas Health and Safety Code**, as amended. Dogs must have a properly fitted collar and restraint system as required by Subchapter D, Chapter 821 of the Texas Health and Safety Code.
- 19) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
 - a) between the hours of 10 p.m. and 6 a.m.;
 - b) within 500 feet of the premises of a school; or
- 20) In the case of extreme weather conditions, including conditions in which:
 - (a) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - (b) a heat advisory has been issued by a local or state authority or jurisdiction; or
 - (c) a hurricane, tropical storm, or tornado warning has been issued by the National Weather Service.
- 21) A restraint unreasonably limits a dog's movement if the restraint:
 - (a) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
 - (b) is a length shorter than the greater of:
 - (c) five times the length of the dog, measured from the tip of the dog's nose to the base of the dog's tail; or
 - (d) 10 feet;
 - (e) is in an unsafe condition; or
 - (f) causes injury to the dog.
- 22) EXCEPTIONS: Section X does not apply to:
 - a) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;
 - b) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
 - c) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
 - d) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;
 - e) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
 - f) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

SECTION VII VIOLATION AND ENFORCEMENT OF UNLAWFUL RESTRAINT

- 23) A person commits a violation if the person knowingly violates this ordinance.
- 24) A peace officer or Local Rabies Control Authority who has probable cause to believe that an owner is violating Subchapter D, Chapter 821 of the **Texas Health and Safety Code** shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.
- 25) A person commits an offense if the person is provided a statement and fails to comply with Subchapter D, Chapter 821 of the Texas Health and Safety Code within 24 hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.
- 26) If it is shown that a person charged with an offense under Subchapter D, Chapter 821 of the Texas Health and Safety Code has previously been convicted of an offense under that chapter, that person shall be charged with a Class B misdemeanor.
- 27) If a person fails to comply with Chapter 821 of the Texas Health and Safety Code with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.
- 28) If conduct constituting an offense under, Chapter 821 of the Texas Health and Safety Code also constitutes an offense under any other law, the actor may be prosecuted under Chapter 821 of the Texas Health and Safety Code, the other law, or both.

SECTION VIII CRUELTY TO NONLIVESTOCK ANIMALS

- 29) In accordance with Section 42.092 "Cruelty of Non-Livestock Animals" of the **Texas Penal Code Chapter 42** which prohibits a person from intentionally, knowingly or recklessly cruelly treating an animal. The following actions define cruel punishment:
- a) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;
 - b) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;
 - c) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;
 - d) abandons unreasonably an animal in the person's custody;
 - e) transports or confines an animal in a cruel manner;
 - f) without the owner's effective consent, causes bodily injury to an animal;
- 30) It is a defense to prosecution under this section that: (1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; (2) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery;
- 31) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under Section 42 of the Texas Penal Code.

SECTION IX ORDINANCE REVIEW

- 32) This ordinance shall be reviewed every 4 years by the Commissioners Court with evaluation and discussion of any new proposed ordinance changes that may have a significant impact on the quality of life in the County and to provide additional opportunities for the County departments and public input in the development and administration stages of this Ordinance.

SECTION X VIOLATIONS

Polk County Animal Control Fee Amounts		
1.	Transportation Fee (if picked up by Animal Control)	\$ 35.00 (new county fee)
2.	First Impound Fee	\$ 35.00 (new county fee)
3.	Second Impound Fee	\$ 70.00 (new county fee)
4.	Failure to provide proof of Rabbits Vaccination	\$ 169.00 (current court costs Class C)
5.	Prohibit Animal to Run-at-Large	\$ 169.00 (current court costs Class C)
6.	Permit Animal to Run-at-Large, (Dangerous)	\$ 254.00 (current court costs Class C)
7.	Failure to Quarantine animals	\$ 270.00 (current court costs Class C)
8.	Cruelty or Abandonment of Animals	Currently a State Class A \$ 254.00 Proposing as Class C \$169.00

RESOLUTION AND ORDER

On this the xxth day of xxxxxxx, 2018, at a Regular Session meeting of the Commissioners Court of Polk County, Texas, there came on for consideration and approval a motion to adopt a current Polk County Rabies Control and Animal Restraint Ordinance and fee schedule to establish the County's existing such Ordinance. A copy of the new Ordinance proposed is attached hereto and incorporated herein for all purposes.

Motion was made by xxxxxxx and seconded by Commissioner xxxxxxxxx that said Commissioners Court does hereby authorize the adoption of the establishment of a Polk County Rabies Control and Animal Restraint Ordinance and fee schedule attached hereto.

Said Motion being put to a vote, it carried by a vote of xxx of xxx. It is, therefore, **ORDERED** that Commissioners Court hereby approve the adoption of the revised Polk County Rabies Control and Animal Restraint Ordinance and fee schedule attached hereto.

PASSED AND APPROVED ON xxxxxxxx xx, 2018.

POLK COUNTY, TEXAS

SYDNEY MURPHY, COUNTY JUDGE

ROBERT C. "BOB" WILLIS, COMMISSIONER PRECINCT 1

RONNIE VINCENT, COMMISSIONER PRECIENT 2

MILT PURVIS, COMMISSIONER PRECIENT 3

C.T. "TOMMY" OVERSTREET, COMMISSIONER PRECIENT 4