

AN ORDER ADOPTING
THE ANIMAL HEALTH
AND CONTROL ORDER

PROCEEDINGS BEFORE THE
COMMISSIONERS' COURT
REFUGIO COUNTY, TEXAS

SEPTEMBER 22, 1997

WHEREAS, it is the desire of this court to establish the following regulations concerning vaccination of animals, reporting of human exposure to rabies, quarantining and testing of biting animals, reduction of the stray animal population, restraint of vicious animals and prohibition of animals running at large; and

WHEREAS, to prescribe penalties for violation of such provisions in accordance with and pursuant to Chapter 822, 826 and 828, Health and Safety Code, V.T.C.A.;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS' COURT OF REFUGIO COUNTY, TEXAS, that the following provisions be adopted, this the 22nd day of September, 1997.

SECTION I
Definitions

When used in this order the following words and terms shall be interpreted as follows:

- 1.0 Animal - Any mammal, domesticated or wild.
- 1.1 Animal Owner - Any person who owns or has custody or control of an animal.
- 1.1a Animal Control Authority - A city or county animal control office.
- 1.2 Custodian - A person or agency which feeds, shelters, harbors, has possession or control, or has the responsibility to control an animal for 72 (seventy-two) hours.
- 1.3 Bite - Puncturing or tearing of the skin caused by an animal's teeth.
- 1.3a Bodily injury - Means physical pain, illness, or any impairment of physical condition.
- 1.4 Cat - Felis catus.
- 1.5 Currently Vaccinated - Vaccinated and satisfying the following criteria.
 - (a) The animal must have been vaccinated against rabies at three months of age as prescribed by the United State Department of Agriculture (USDA).
 - (b) At least 30 days have elapsed since the initial vaccination.
 - (c) Not more than 12 months have elapsed since the most recent vaccination.

1.6 Dangerous Dog - A dog that:

(a) Makes an unprovoked attack on a person or domestic animal that causes bodily injury or severe 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

(b) Commits unprovoked acts 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 and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

(c) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept, against a domestic animal and those acts cause severe bodily injury or death to said animal.

1.7 Department - The Texas Department health (TDH).

1.8 Dog - Any Canis familiar, including hybrids.

1.9 Domestic animal - Any animal normally adapted to live in intimate association with humans or for the advantage of humans.

1.10 Domestic dog - Any canis familiar, excluding hybrids.

1.11 Guide dog - Domestic dog that is in service to a legally blind person.

1.12 High risk animals - Those animals which have a high probability of transmitting rabies; they include skunks, bats, species of foxes indigenous to north America, coyotes, and raccoons.

1.13 Housing facility - Any room, building, or area used to contain a primary enclosure or enclosures.

1.14 Humanely killed - To cause the death of an animal by a method which:

(a) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

(b) Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

1.15 Hybrid - Any offspring of two animals of different species.

1.16 Isolation - The separation of an animal exposed or potentially exposed to rabies.

1.17 Local rabies control authority - the officer designated by the municipal or county governing body under the Texas Health and Safety Code, Chapter 826.

1.18 Low risk animals - Those which have a low probability of transmitting rabies; to include all animals of the order; Marsupialia, Insectivora, Rodentia, Lagomorpha, and Xenarthra.

1.19 Observation period - The time following a bite incident during which the biting animal's health status must be monitored. The observation period for domestic dogs and cats (only) is 10 days.

1.20 Police dog - Domestic dog that is owned or employed by a governmental law enforcement agency.

1.21 Primary enclosure - Any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

1.22 Public health region - A contiguous group of Texas counties, so designated by the board.

* 1.23 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 enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

(a) Is repeatedly at large or stray;

(b) Damages the property of anyone other than its owner;

(c) Molests or intimidates pedestrians or passersby;

(d) Trespasses on school grounds;

(e) Chases vehicles;

* (f) Excessively makes disturbing noises, 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;

(g) Non-agricultural animal (dogs and cats) - 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;

(h) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(i) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or

(j) Attacks other domestic animals

1.24 Quarantine facility - A structure where animals are held for rabies observation.

1.25 Quarantine period - That portion of the observation period during which a biting animal is physically confined for observation as provided for in Sec. 169.27 of this title (relating to Quarantine Method and Testing).

• 1.26 Running at large: Not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animals are either on a leash or held in the hands of the owner or keeper, or under direct supervision of the owner within the limits of the owner's private property or other property where owners are lawfully permitted. An animal within an automobile or vehicle of its owners are lawfully permitted. An animal within an automobile or vehicle of its owner shall not be deemed "Running at large."

1.27 Sanitize - To make physically clean and to destroy disease - producing agents.

1.28 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 dog;

(d) Clearly marked as containing a dangerous dog; and

(e) In conformance with the requirements for enclosures established by the local animal control authority.

1.28a Serious Bodily Injury - A severe bite wound or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek medical treatment and would require hospitalization without regard to whether the person actually sought medical treatment.

1.29 Stray: Roaming without physical restraint beyond the premises of the animal's owner. Absence of current rabies tag on dog running a large will be construed as evidence of stray status.

1.30 Unowned animal - Any animal for which an owner has not been identified.

1.31 Vaccinated - Properly injected by a licensed veterinarian with a rabies vaccine licensed for use in that species by the United States Department of Agriculture.

1.32 Wild animal: All species of animals which commonly exist in a natural unconfined state and are usually not domesticated. This shall apply regardless of state of duration of captivity.

1.33 Zoonosis Control Division (ZCD) - The Division within the Texas Department of Health to which the responsibility for implementing these rules is assigned.

1.34 Zoonosis control representative - Any person employed by the ZCD.

SECTION 2 ANIMAL AND RABIES CONTROL

2.1 The owner of each dog or cat shall have the dog or cat vaccinated against rabies at three months of age or as prescribed by the United States Department of Agriculture (USDA) and within each subsequent 12-month interval thereafter. Only USDA-licensed rabies vaccines with a three-year duration of immunity in dogs or a vaccine which has been licensed for less than two years, and

for which testing to obtain approval for three-year duration of immunity is in progress, may be used according to label directions in any species for which it is approved.

2.2 Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by Texas Department of Health. Information is required as follows:

- (a) Owner's name, address, and telephone number;
- (b) Animal identifications - species, sex, age (three months to 12 months, 12 months, or older), size (pounds), predominant breed, and colors;
- (c) Vaccine used - producer, expiration date, and serial number;
- (d) Date vaccinated;
- (e) Rabies tag number if a tag is issued;
- (f) Veterinarian's signature or signature stamp and license number.

2.3 A copy of each official rabies vaccination certificate issued shall be retained by the issuing veterinarian in a readily retrievable status for a period of not less than three years from the date of issuance.

2.4 If a veterinarian ceases the practice of veterinary medicine, the duplicate rabies vaccination certificates retained by that practice shall be turned over to the local rabies control authority. This does not apply to the sale or lease of a practice, when the records of the practice are transferred to a new owner.

2.5 Rabies tag: Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall attach to the collar or harness of the vaccinated dog or cat 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 his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times.

2.6 Duplicate tags: In the event of loss or destruction of the original tag provided in Section 2.5, the owner of the dog or cat shall obtain a duplicate tag. Vaccination certificates (and tags) shall be valid only for the animal for which it was originally issued. Duplicate tag may be purchased from the practicing veterinarian that issued the original tag.

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

2.8 Unvaccinated animals: It shall be unlawful for any person to own a dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

2.9 Penalty for violation: Any person who violates a provision of this Section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

SECTION 3 **Reports of Human Exposure to Rabies**

3.1 Any person having knowledge of a potential rabies exposure to a human as defined in the Texas Health and Safety code, 826.041 will report the incident to the local rabies control authority as soon as possible, but not later than 24 hours from the time of the incident. This requirement does not apply to bites by low risk animals as defined in 1.18 of this title (relating to Definitions).

3.2 The owner of a custodian of the potentially rabid animal will place that animal in quarantine or submit it for testing as prescribe in Section Four of this title (relating to Quarantine Method and Testing).

3.3 The local rabies control authority will investigate each potential exposure and assure appropriate resolution, in accordance with Section Four.

SECTION 4 **Disposition of Domestic Animals Exposed to Rabies**

4.1 Unvaccinated animals which have 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 shall be immediately vaccinated against rabies, placed in strict isolation for 90 days, and given booster vaccinations during the third and eight weeks of isolation. If the animal is less than three months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three months of age.

4.2 Currently vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal shall be:

(a) humanely killed; or

(b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal shall be given a booster rabies vaccination immediately and placed in strict isolation for 45 (forty-five) days.

(c) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

(d) In situations where none of the requirements of this section are applicable, the recommendations contained in the latest edition of the publication titled The Compendium of Animals Rabies Control, published by the National Association of State Public Health Veterinarians, should be followed.

SECTION 5
Submission of Specimens For Laboratory Examinations

5.1 Preparation of specimens either for shipment or for personal delivery for rabies diagnosis shall include the following.

(a) Damage to the brain caused by shooting or other traumatizing procedures shall be avoided.

(b) Suspect animal's head shall be separated from the body immediately after death by a qualified person. Only the head shall be submitted with the exception that whole bats may be submitted.

(c) The head shall be immediately chilled to between 45 degrees Fahrenheit and 32 degrees Fahrenheit, but should not be frozen.

SECTION 6
Quarantine Procedures For Animals

6.1 When a domestic dog or cat which has bitten a human has been identified, the owner or custodian will be required to place the animal in quarantine. Unvaccinated animals should not be vaccinated against rabies during the observation period. The 10-day observation period will begin on the day of the bite incident. The animal must be placed in a Texas Department of Health (department) approved facility specified by the local rabies control authority and observed at least twice daily. However, the owner or custodian of the animal may request permission from the local rabies control authority for home quarantine if the following criteria can be met.

6.2 Secure facilities must be available at the home of the animal's owner or custodian, and must be approved by the local rabies control authority.

6.3 The animal is currently vaccinated against rabies.

6.4 The local rabies 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 local rabies 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.

6.5 The animal was not a stray (as defined in the Texas Health and Safety Code, (826.002) at the time of the bite.

6.6 A domestic animal which has bitten a human and has been designated by the local rabies control authority as unclaimed may be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a department certified laboratory for rabies diagnosis.

6.7 If the biting animal is a high risk animal, it shall be humanely killed and the brain submitted for rabies testing.

6.8 If the biting animal is a low risk animal, neither quarantine nor rabies test will be

required unless the local rabies control authority has cause to believe the biting animal is rabid, in which case it should be humanely killed and tested for rabies.

6.9 The local rabies control authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations so the face, head, or neck of a person to be humanely killed and the brain tested for rabies.

6.10 If the biting animal is not included in subsections (6.1), (6.2), (6.3), (6.4), or (6.5) of this section, the biting animal will be humanely killed and the brain tested for rabies or the local rabies control authority may require the animal to be confined for a 30-day observation period an alternate method to killing and testing, otherwise conforming to the requirements delineated in a subsection (a) of this section.

6.11 Any animal required to be quarantined under this section, which cannot be maintained in a secure quarantine, shall be humanely killed and the brain tested for rabies.

6.12 Currently vaccinated guide dogs in service or currently vaccinated police dogs when a bite inflicted in the line of duty shall not be required to be placed in quarantine.

6.13 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. Each day an animal is not produced for quarantine shall constitute a separate offense.

SECTION 7 Dogs Or Cats Running At Large

7.1 Dogs and cats at least 4 months of age shall be prohibited from running at large. If ownership is determinable and animal has registration with owners' I.D., and the owner can be located, the animal shall be returned to owner and the owner shall be cited for violation of this order. If owner cannot be located the animal shall be kept for not less than 72 hours. If ownership is in question or if the animal is a stray, the animal shall be impounded for 48 (forty-eight) hours. An owner may claim the animal within this time period after paying all incurred costs and impoundment fees.

7.2 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. no portion of the fine imposed hereunder may be deferred, suspended or probated.

SECTION 8 • Interference With The Animal Control Officer

8.1 It shall be unlawful for any person to interfere with, molest hinder, or prevent the animal control officer from the official discharge of the duties as herein prescribed.

8.2 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

SECTION 9
Creation, Supervision and Duties Of Local Health Authority

9.1 The Commissioners' Court hereby appoints the animal control officer as the local health authority for the purposes of rabies control.

9.2 Among other duties, the animal control officer acting as the designated local health authority shall enforce:

(a) All state laws and the rules adopted by the Texas Department of Health establishing minimum standards for rabies control;

(b) This order and all others promulgated by the county concerning rabies and animal control;

(c) The rules adopted by the Texas Department of health concerning area rabies quarantines.

9.3 Records: It shall be the duty of the animal control officer to maintain records which will track cases and funds in a manner to be approved by commissioners' court for implementation of all provisions of this order. Quarterly reports shall be made to Commissioners' Court citing number and type of call, actions and costs incurred.

SECTION 10
Licensing Requirement and Impoundment Fees

10.1 There shall be no licensing fee in the rural areas of Refugio County.

10.2 Impoundment fees: An owner claiming an animal which has been impounded under this order shall pay, prior to the release of said animal, the following fees;

STATUS OF ANIMAL	1ST OFFENSE	2ND OFFENSE
Licensed & Altered	\$25.00	\$40.00
Licensed & unaltered	\$40.00	\$60.00
Un-licensed & Altered	\$40.00	\$60.00
Un-licensed & Unaltered	\$60.00	\$85.00

In addition, costs of boarding the animal and vaccination expense, if applicable, together with any other costs incurred, will be due prior to release of the animal.

10.2 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 and not more than \$500.00.

SECTION 11
Ownership of Dangerous Dog

11.1 Requirements for the owner of a dangerous dog.

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

(1) Register the dangerous dog with the Refugio County Animal Control Officer for the area in which the dog is kept. An annual fee of \$50.00 shall be collected by the animal control officer.

(2) 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 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 animal control authority shall issue a new registration tag to be placed on the dangerous dog's collar.

(3) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure, said enclosure to be approved by the animal control officer.

(4) The owner of a dangerous dog must have the ability to obtain or show financial responsibility in an amount of at least \$100,000.00 to cover damages to property and person resulting from a dog attack.

(5) An owner, not later than the 30th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the 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.

11.2 Appeal of notification of ownership of a dangerous dog.

(a) If a person reports an incident involving a dangerous dog the animal control authority shall make an initial investigation of the incident and if further investigation is warranted, the animal control authority shall take sworn statements in order to make a determination. The owner shall be notified of this determination. If, after receiving the sworn statements of any witnesses, the animal control officer determines the dog is a dangerous dog, it shall notify the owner of that fact.

(b) Within fifteen days of being informed that the owner's dog is considered dangerous, an owner still in possession of the dangerous dog may appeal this decision to a justice or municipal court of competent jurisdiction. Further appeals may be pursued in the same manner as appeals for other civil cases.

11.3 Confiscation: Upon failure of an owner of a dangerous dog to timely meet the requirements placed on that owner by Sec. 822.042, Health and Safety Code and this order, or upon final adjudication by a court of competent jurisdiction of an unsuccessful appeal by the owner of the determination that the animal is a dangerous dog, whichever is later, the animal control or his designee shall confiscate the animal if it is found on public property or on private property where the officer has first obtained the permission of the property owner to enter. The animal control officer may also request the assistance of the county attorney or district attorney to obtain an injunction authorizing the officer or his designee to enter onto the premises of the owner to confiscate the animal.

The animal thus confiscated shall be sheltered by the animal control officer for a period of three (3) days to allow the owner to reclaim the animal upon satisfaction of the provisions of health and Safety Code Sec. 822.042, Sec. 822.043 and this order. Upon failure of the owner to reclaim the animal during that period, the animal control officer may destroy the animal without compensation to the owner. In addition to the fees required for registration of the animal, before returning the animal to the owner upon satisfaction of the above-referenced provisions, the animal control officer may charge to the owner the expenses of any period of shelter offered the animal. The animal control officer may also request the assistance of the county attorney or district attorney to obtain restitution from the owner by civil suit for the expenses of any period of shelter offered the animal.

The animal control officer shall have no authority to confiscate any animal unless he has first delivered to the owner of the animal written notice of the determination that the animal is a dangerous dog by certified mail, directed to the last known mailing address of the owner. However, a dog that causes severe bodily injury or death to a person shall be immediately seized by the animal control authority and each dog shall be impounded until a hearing is held in a municipal or justice court.

11.4 Penalty for violation; Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. If it is shown that an owner has been convicted two or more times of an offense under this section, punishment shall be by a fine of not less than \$200.00 nor more than \$500.00. Each day that a person owns a dangerous dog in violation of this section shall constitute a separate offense.

SECTION 12 Prohibited Wild Animals

* 12.1 A person commits an offense if he owns, possesses or harbors a wild animal within this County unless they have purchased an animal permit from the county. The permit fee shall be \$100.00 per animal up to a maximum \$500.00 per household. There shall be a separate offense for each wild animal involved.

12.2 For purposes of this ordinance "wild animal" means: lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, hyena, bear, lesser panda, binturong, wolf, ape, elephant and rhinoceroses.

12.3 The provisions of Section 1 above shall not apply:

(a) inside the limits of a municipality; or

(b) to an "exhibitor" within the meaning of Section 2(h) of the federal Animal Welfare Act (7 U.S.C. § 2132(h)) who holds a Class "c" exhibitor's license issued by the secretary of agriculture pursuant to that Act.

12.4 An offense under Section 1 above is punishable by a fine of not less than \$200 or more than \$2,000.

12.5 If a person is found guilty of an offense under Section 1 above the court shall order the forfeiture of the wild animals involved in the offense to the animal control authority for the County.

12.6 In addition to criminal prosecution, a person who commits an offense under Section 12.6 above is also liable for a civil penalty not to exceed \$1,000 for each day of the violation. An attorney having civil jurisdiction in this County may file suit in a court of competent jurisdiction to collect the civil penalty. Civil penalties collected under this Section 12 shall be retained by the county.

SECTION 13
General Provisions

13.1 Severance Clause: If any section, sentence, clause or phrase 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.

13.2 Safety Clause: Commissioners' Court hereby finds, determines and declares that this order is necessary for the immediate preservation of the public peace, health and safety.

13.3 Repealer: All other orders and parts of the orders in conflict herewith are repealed.

13.4 Municipal Ordinances to Supersede: The promulgation and establishment of these regulations by Refugio County Commissioners' Court shall not prevent a corporate municipality within the county from establishing any rules and regulation to control animals within their corporate limits. Any such ordinance established by said corporate municipalities shall supersede the county order thereby preventing dual enforcement. This order will not be enforced within the corporate limits of any municipality unless an appropriate interlocal agreement has been entered into between the municipality and the county.

PASSED AND ADOPTED this 22nd day of September, 1997 to become effective October 1, 1997 upon a motion by Commissioner HENRY and a second by Commissioner MARTINEZ with the following vote taken:

Judge Stone AYE
Comm. Ortega, Pct. 1 AYE
Comm. Hicks, Pct. 2 AYE

Comm. Henry, Pct. 3 AYE
Comm. Martinez, Pct. 4 AYE

Attest:

Janelle Morgan
Janelle Morgan, County Clerk
and Ex Officio Member of
Commissioners' Court
Refugio County, Texas

Charles S. Stone
Charles S. Stone, County Judge

Valentin C. Ortega
Valentin Ortega, Comm. Pct. No. 1

Ronald K. Hicks
Ronald K. Hicks, Comm. Pct. 2

James R. Henry
James R. Henry, Comm. Pct. No. 3

Richard Martinez
Richard Martinez, Comm. Pct. No. 4

