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BRAZOS COUNTY ANIMAL CONTROL ORDINANCE

AN ORDINANCE OF THE COMMISSIONERS COURT OF BRAZOS COUNTY, TEXAS, TO

ESTABLISH A RABIES CONTROL PROGRAM, RESTRAINT OF CERTAIN ANIMALS,

DESIGNATE A LOCAL ANIMAL CONTROL AUTHORITY, REGULATE DANGEROUS DOGS,

DECLARE A PUBLIC NUISANCE AND PROVIDE PENALTIES PURSUANT TO CHAPTERS 822 AND 826 OF THE TEXAS HEALTH & SAFETY CODE.

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

WHEREAS, the Commissioners Court of Brazos County is authorized by Chapter 826 of the Texas Health & Safety Code to enact a local ordinance 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 this animal control ordinance in an effort to protect the public health and safety of Brazos County residents and encourage the humane treatment of animals;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT

OF BRAZOS COUNTY, TEXAS, THAT: The following provisions be adopted this

the 8th day of December, 2009.

SECTION 1. INTENT AND AUTHORITY

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

Section 1.2 Intent. It is the intent of the Commissioners Court of Brazos County, Texas to enact this ordinance in order to protect the public health and safety of the citizens of Brazos County and the Commissioners Court hereby declares that this ordinance is necessary for the immediate preservation of the public peace, health and safety. This ordinance is further intended to encourage the humane treatment of animals and prevent cruelty to animals.

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

Section 1.4 Municipal Ordinances to Supersede. This ordinance 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 ordinance thereby preventing dual enforcement. In such cases, this ordinance will not be enforced within the *corporate* limits of any *municipality*.

SECTION 2. DEFINITIONS

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

Section 2.1 Abandoned Animal: Shall mean any animal that has not been provided with one (1) or more of the necessities of life including air, food, water, or protection from the sun and other elements of nature, or has been left in the custody of another person without their consent or to neglect or refuse to provide or perform legal obligations for the care and support of an animal.

Section 2.2 Animal Control Officer: Any person(s) designated by the Brazos County Sheriff or his designee to perform the duties outlined in this ordinance.

Section 2.3 Animal Cruelty: 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 (Penal Code: 042.92).

Section 2.4 Animal Owner: Any person who owns, keeps, or has custody or control of an animal.

Section 2.5 Bite: Any puncturing, tearing, or scratching of the skin caused by an animal.

Section 2.6 Cat: Felis Catus.

Section 2.7 "Chapter 822" means Chapter 822 of the TEXAS HEALTH AND SAFETY CODE.
"Chapter 826" means Chapter 826 of the TEXAS HEALTH AND SAFETY CODE.

Section 2.8 Companion Animal: Means any domestic or feral dog, domestic or feral cat, non-human primate, guinea pig, hamster, or rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person, or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animal

regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Section 2.9 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 2.10 Dog: Canis Familiaris.

Section 2.11 Domestic Animal: Any animal that is owned, kept, or controlled by a person other than those with a wildlife exemption.

Section 2.12 Farm Livestock: Refers to cattle, hogs, sheep, goats, mules, horses, jacks, jennets, or poultry raised or used on a farm or ranch for food or the production of legal income.

Section 2.13 Holiday: Those days designated as official holidays by the Brazos County Commissioners Court.

Section 2.14 Microchip: Shall mean an identifying chip placed under the skin of an animal used as an additional form of identification.

Section 2.15 Restraint: An animal that 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 road driving surface;
- 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 be considered a means of restraint; or
- c) accompanied by a responsible person who is able to control it with a leash, or verbal or visual commands.
- d) On its owner's property.

Section 2.16 Serious Bodily Injury: An injury characterized by severe bite wounds or severe ripping and tearing of muscle or tissue that would cause a reasonably prudent person to seek treatment from a medical professional.

Section 2.17 Stray: Means roaming with no physical restraint beyond the premises of an animal's owner or keeper. The display of a vaccination tag or license tag does not change the fact that the dog or cat is a stray or an abandoned animal for the purpose of these Regulations.

Section 2.18 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 2.19 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. LOCAL ANIMAL CONTROL AUTHORITY

Section 3.1 Designation of Animal Control Authority. The Commissioners Court of Brazos County, Texas, hereby designates the Brazos County Sheriff as the local animal control authority and creates the position of Animal Control Officer within the Sheriff's Office to assist with the following:

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

Section 3.2 Duties of Animal Control Officer. The Animal Control Officer or his authorized designee will be responsible, for, but not limited to, the following duties as set forth in this ordinance and to carry out provisions of the State laws pertaining to control and eradication of rabies.

- a) Animal bites – receive and investigate reports of animal bites within Brazos County in a timely manner. Bites occurring within municipalities having animal control ordinances will be referred to the proper municipal authority.
- b) Quarantine – perform immediate and proper quarantine procedures for animals suspected of having rabies. Animals may be placed in approved animal shelters, approved veterinary hospitals or owners' approved premises.
- c) Destruction – perform immediate, if warranted, proper and humane destruction of certain animals described in this ordinance.
- d) Citations – Issuance of citations for various violations and offenses set forth.
- e) Records – Provide necessary data and reports on a periodic basis as required by Commissioners Court.

Section 3.3 Interference with the Animal Control Officer and Penalty. A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with an officer with responsibility for animal control, while the officer is performing a duty or exercising authority imposed or granted under Chapter 821 or 822, Health and Safety Code. An offense under this section is a Class B Misdemeanor. (Texas Penal code §38.15).

SECTION 4. LICENSING AND REGISTRATION & FEES

Section 4.1 Animals to be Licensed: Registration of all cats and dogs will be required. It would be encouraged to have Rabies Tags on the animal for identification purposes. The fee for Brazos County Registration and tag is \$15.00 per year for each dog or cat.

The fee for replacement of Brazos County tag is \$1.00 per tag. The county license expires on the anniversary of the rabies vaccination.

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. A rabies vaccination is required. Any person moving into the county shall comply with this section within ten (10) days after having moved into the county.

A current rabies vaccination is required to purchase a Brazos County license.

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.

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 State Health Services for identification purposes will be considered by the Animal Control Officer.

Section 5.4 Duplicate Tags. In the event of loss or destruction of the original tag provided in Section 5.3, 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 may be purchased from any practicing veterinarian in Brazos County.

Section 5.5 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 order.

Section 5.6 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 5.7 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 Animal Control Authority.
- b) Any such animal shall be impounded and placed in isolation in a facility approved by the 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 contracted 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, not counting weekends and holidays, the animal may be humanely destroyed.
- e) In addition to any impound fees, any costs directly associated with the examination, treatment, and/or vaccination of the animal shall be due prior to release of the animal.
- f) Refer to Chapter 826 of the Health & Safety Code.

Section 5.8 Penalty for Violation.

- a) An offense under this section is a Class C Misdemeanor.
- b) 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 Animal Control Officer as soon as possible.

Section 6.2 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 Animal Control Officer.

Section 6.3 Investigation. The Animal Control Officer shall investigate each bite incident reported.

SECTION 7. 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 and time of the bite.
- d) The animal must be placed in an animal control facility or a veterinary hospital approved for that purpose by the Texas Department of Health or on the owner's property in an approved manner.

Section 7.2 Zoonosis Control Rabies Control and Eradication.

Disposition of Domestic Animals Exposed to Rabies.

- a) Not currently vaccinated animals which have been bitten by, directly exposed by physical contact with, or directly exposed to the fresh tissues of a rabid animal shall be:
 - 1) humanely killed; or
 - 2) immediately vaccinated against rabies, placed in confinement for 90 days, and given booster vaccinations during the third and eighth weeks of confinement. For young animals, additional vaccinations may be necessary to ensure that the animal receives at least two vaccinations at or after the age prescribed by the United States Department of Agriculture (USDA) for the vaccine administered.
- b) Currently vaccinated animals which have been bitten by, directly exposed by physical contact with, or directly exposed to the fresh tissues of a rabid animal shall be:
 - 1) humanely killed; or
 - 2) immediately given a booster rabies vaccination and placed in confinement for 45 days.
- c) These provisions apply only to domestic animals for which a USDA-licensed 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 *Compendium of Animal Rabies Prevention and Control*, published by the National Association of State Public Health Veterinarians, should be followed. The administration of a rabies vaccine in a species for which no licensed vaccine is available is at the discretion of the veterinarian; however, an animal receiving a rabies vaccine under these conditions will not be considered to be vaccinated against rabies virus in potential rabies exposure situations.

Section 7.3 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 may be humanely destroyed, and the brain shall be submitted to a Texas Department of Health (TDH) certified laboratory for rabies diagnosis, at the owner's expense.

Section 7.4 Wild Animals. No wild animals will be placed in quarantine. All wild animals involved in biting incidents shall be humanely killed in such a manner that the brain is not mutilated and the brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

Section 7.5 Penalty for Violation.

- a) An offense under this section is a Class C Misdemeanor.
- b) If it is shown on 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.
- c) Each day an animal is not produced for quarantine shall constitute a separate offense.

SECTION 8. ANIMAL RESTRAINT

Section 8.1 Animals At-Large, Generally; Stray

It shall be unlawful for any person to allow any animal to be a stray or nuisance within the county. Any animal subject to this regulation that is roaming without restraint, whether or not the animal's ownership is readily ascertainable shall be deemed a stray and a public nuisance. Any animal found to be a public nuisance may be taken into custody by the Animal Control Officer. The Animal Control Officer may make reasonable effort to notify the owner of the conditions, whereby custody of the animal may be regained if the Animal Control Officer elects to impound the animal. Animals not claimed by the registered owner within a period of three (3) days in which the shelter is open to the public a minimum of four (4) hours, shall become the property of the animal shelter.

Section 8.2 Elimination of Stray Animals:

Subject to citation for violation of this order, an owner may claim the animal within this time period after paying all incurred costs and impoundment fees.

Section 8.3 Restraint, Impoundment, and Disposition of Dogs and Cats:

In accordance with Texas Health and Safety Code §§ 826.014 and 826.015:

- a) Each dog or cat shall be restrained by its owner.
- b) Each stray dog or cat is hereby declared a public nuisance.
- c) Each unrestrained dog or cat may be detained or impounded by the Animal Control Officer, and;
- d) Each stray dog or cat can be impounded for a period set by this ordinance.
- e) When dogs or cats are stray and their ownership is known to the Animal Control Officer, the Officer may:
 - 1) Impound the animal;
 - 2) Cite the custodian of the animal to appear in a Justice of the Peace court to answer charges of violation of these Regulations; or,
 - 3) Impound the animal and cite the custodian of the animal to appear in a Justice of the Peace court to answer charges of violation of these Regulations.

Section 8.4 Penalty for Violation. An offense under this section is a Class C Misdemeanor.

SECTION 9. STANDARD CARE

Section 9.1 Under no circumstances shall any person keep at his or her premise more companion animals than can be properly maintained in a healthy condition (as outlined below) without presenting a health or safety hazard to the owners, keeper or others and without constituting a nuisance to the occupants of neighboring properties.

Each owner shall provide for each of his/her animals: (Reference Definition of Domestic Animal-Section 2.7). (Reference Definition of Farm Livestock-Section 2.16) excluded.

- a) Adequate food.** Adequate food which means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species. The determination of adequate feed can be made by an animal care professional.
- b) Adequate water.** Adequate water means provision of continuous access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner and in sufficient volume to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.
- c) Adequate shelter that is properly cleaned.** Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury, are not adequate shelter.
- d) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight.** Adequate space means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

- e) **Adequate exercise.** Adequate exercise means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal. (The intent is to provide opportunities for socialization. Lack of exercise, socialization and mental stimulation may lead to behavior problems such as self-mutilation, destructive behavior, fear and aggression. A pet needs a relationship with at least one other living being. Chronic isolation is unnatural and unhealthy for a companion animal. Human contact that occurs only when food and water are replenished does not constitute proper attention.)
- f) **Adequate care, treatment and transportation.** Adequate care means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health. Adequate treatment means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.
- g) **Veterinary care, including emergency treatment when needed or to prevent suffering or disease transmission.** Veterinary care means treatment by or on the order of a duly licensed veterinarian. Emergency treatment means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.
- h) **Tethering of animals:** Animals being tethered or restrained by a chain, rope, tether, leash, cable or other device to a stationary object, cannot restrict the animal in any way that could be defined as being "cruelly treated", as set forth in Chapter 821 of the Texas Health & Safety Code.

Section 9.2 Prohibition of Inhumane Treatment.

- a) Any inhumane treatment of any type of animal shall be deemed cruelty.
- b) It shall be unlawful for a person to intentionally, knowingly, recklessly or with criminal negligence, by act or omission, treat an animal inhumanely (Penal Code: 42.092 and 42.09).

SECTION 10. DANGEROUS DOGS

Section 10.1 Requirements for Ownership of a Dangerous Dog. Not later than the 30th day after the date an owner learns that he/she is the owner of a dangerous dog that is not to be humanely euthanized, the owner shall:

- a) Comply at all times with the requirements set forth in Subchapter D, Chapter 822 of the Texas Health & Safety Code; and
- b) Identify the dangerous dog with permanent identification such as a microchip or a tattoo; and
- c) Affix county issued "dangerous dog" tag to the dog's collar that must be worn by the dog at all times and renewed annually; and
- d) Restrain the dangerous dog at all times on a leash, no longer than 6 feet in length, and a capable adult person has immediate physical control of the leash at any time

- the dog is not in a secure enclosure; and secure the dangerous dog with a muzzle in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the dangerous dog is taken off the property of the owner for any reason; and
- e) Confine the dog in a secure enclosure that provides the following criteria, fenced area or structure that is:
 - 1) locked;
 - 2) capable of preventing the entry of the general public including children;
 - 3) capable of preventing the escape or release of a dangerous dog;
 - 4) clearly marked as containing a dangerous dog; and
 - 5) conforms to the requirements for enclosures established by the Animal Control Authority.
 - f) Clearly mark the enclosure by posting dangerous dog signs on all sides; and
 - g) Obtain liability insurance coverage in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage to the Animal Control Authority; and
 - h) Surgically spray or neuter the dog and provide proof to Animal Control that the dog has been sterilized; and
 - i) If the owner of a dangerous dog sells the dog or moves to a new address, the owner, not later than the fourteenth (14th) day after the date of sale or move, shall notify the Animal Control Authority for the area where the new address is located. On presentation by the current owner of the dangerous dog prior registration tag and payment of a fee, the Animal Control Authority shall issue a new registration tag to be placed on the dangerous dog's collar.
 - j) The owner agrees to disclose to any boarding facility, veterinary clinic, or animal trainer, prior to the dog's visit, that the dog is dangerous and notify Animal Control that the dog is being transported; and
 - k) The dangerous dog may not be in a public right of way or public place unless it is being transported to a licensed veterinarian, boarding facility, or training facility; and
 - l) The owner must notify Animal Control when the dog is deceased; and
 - m) If the owner of a dog that has been declared dangerous in another jurisdiction, moves into this jurisdiction with that dangerous dog, that owner is responsible for the above rules for housing a dangerous dog; and
 - n) The owner of a dangerous dog agrees to periodic, unannounced administrative inspections to monitor if the statutory conditions required for keeping a dangerous dog have been met.

Section 10.2 Limitations of Ownership of Dangerous Dogs.

- a) Only one dangerous dog may be owned per household.
- b) No more than two (2) dangerous dogs may remain at any residence for more than seven (7) days.

Section 10.3 Seizure and Impoundment of a Dangerous Dog. The Court shall order the Animal Control Authority to seize the dog and shall issue a warrant authorizing the

seizure and impoundment, at the owner's expense of any dog previously determined to be dangerous if:

- a) The owner violates any provision of this article or Subchapter D, Chapter 822 of the Texas Health & Safety Code, as amended; or
- b) The dog causes bodily injury to any person or animal.
 - 1) If a previously determined dangerous dog has been seized and impounded under this section, the Court shall conduct a hearing to determine if the dog should be returned to the owner, or humanely euthanized. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered.
 - 2) At the conclusion of a hearing required under this section, the Court may order that the dog either be returned to the owner in accordance with subsection (D) of this section or be humanely euthanized.
 - 3) A dangerous dog seized and impounded under this section shall not be returned to the owner until the owner pays all the fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code as amended. If all Return to Owner fees have not been paid and all requirements have not been met within ten (10) business days after the Court issues the order to return the dog to the owner, the Court may cause the dog to be humanely euthanized.

An owner of a dangerous dog shall notify the Animal Control Authority, where the dangerous dog is located, of any attacks the dangerous animal makes on people or other animals.

Section 10.4 Hearing (Notification of Declaration of Dangerous Dog)

- a) The Justice of Peace Court within the precinct of the violation, on receiving a written report and an impoundment order from the Animal Control Authority, shall set a time for a hearing to determine whether the dog is a dangerous dog. The hearing must be held not later than the tenth (10th) day after the date on which the dog is delivered or seized. The court shall give notice of the time and place of the hearing to the owner. The notice shall indicate that the owner may appear at the hearing, present evidence, cross examine witnesses, and be represented by legal counsel. The notice shall also inform the owner that the court shall determine whether the dog is returned to the owner, or euthanized. The notice may be given by personal deliver or by mail, it shall cause the notice to be published one time in a newspaper of general circulation and to be posted in a conspicuous place at the county's animal impoundment facility, each of which acts shall be done at least seven (7) business days prior to the date of the hearing.
- b) At the conclusion of the hearing, the court may:
 - 1) Determine that a dog is not dangerous, waive any impoundment fees incurred, and release the dog to its owner, provided that the dog may continue to be held, if required, for the duration of any rabies quarantine period as provided by state law; any fees relating to the rabies quarantine shall be paid by owner.

- 2) Determine that a dog is dangerous and order the owner to comply with the requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and release the dog to its owner in accordance with subsection (D) of this section; or
 - 3) Determine that a dog has killed or caused serious bodily injury to a person or another animal and order the dog to be humanely euthanized.
- c) If a dog is determined to be dangerous the court shall inform the owner in person or direct animal control authority to notify the owner in person or by certified mail, return receipt requested:
- 1) That the dog is dangerous
 - 2) Whether the dog has been ordered to be humanely euthanized.
 - 3) If the dog has not been ordered to be euthanized, what the owner must do to comply with requirements for ownership of a dangerous dog and reclaim the dog from impoundment.
 - 4) That the owner has a right to appeal, as provided by law, a determination of dangerousness or an order to be euthanized.
- d) An impounded dog determined by the court to be dangerous shall remain impounded or confined and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and meets the requirements set forth in Section 10.5. If all impoundment fees have not been paid within 30 days after a final determination that a dog is dangerous, the dog may be humanely euthanized.
- e) Failure of the owner of the dog to appear at the determination hearing shall result in the Animal Control's declaration becoming final.

Section 10.5 Attacks by Dangerous Dogs:

- a) A person commits an offense if the person is the owner of a dangerous dog and the animal makes an unprovoked attack on another person or animal outside the animal's enclosure and causes bodily injury to the other person or animal.
- b) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed in a humane manner by the local Animal Control Authority, Animal Shelter, or a licensed veterinarian.
- c) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty as provided by state law. An attorney having civil jurisdiction in the county where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county.

Section 10.6 Violations. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 10.1.

Section 10.7 Defense (Exemptions)

- a) It is a defense to prosecution under Section 10.6 or Section 10.7 if that person is 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 has temporary ownership, custody, or control of the animal in connection with that position.

- b) It is a defense to the prosecution under Section 10.6 or Section 10.7 if that person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses animals for law enforcement or corrections purposes.
- c) It is a defense to prosecution under Section 10.6 or Section 10.7 if that person is an animal trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act, Article 4413 (29bb, Vernon's Texas Civil Statutes).

Section 10.8 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 10.9 Penalty for Violation.

- a) Any person who violates a provision of Section 10 shall be guilty of a Class C misdemeanor.
- b) If it is shown on 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.
- c) Each day that a person is found guilty of an offense under this section and the offending dog caused death or serious bodily injury, the court may order the dangerous dog destroyed by Animal Control in a humane manner.
- 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 Brazos County Commissioners Court under the direction of the appropriate prosecuting authority 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 regulation.

Section 10.10 Defense. Upon attack by a dangerous animal, the Animal Control Authority may defend himself/herself, a complainant, or property at the Officer's discretion, taking such means as necessary in that situation.

Section 10.11 Exception. Dogs maintained lawfully as guard dogs, as defined herein, shall not be included in the definition of "dangerous animal". As used in this section the term guard dog or attack dog means any dog intended to attack intruders that has completed such professional training and is so certified, or has been trained, such that its attack can be stopped on command.

Section 10.12 Unattended Guard Dog Prohibited. It shall be unlawful for any person to leave any guard dog unattended in any place, inside any building unless a warning sign has been placed in a clearly visible location at the premises. The warning sign shall be located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog is present. It shall be unlawful for any person to leave any guard dog unattended in a place outside a building except in a fenced yard, with a fence adequate to prevent the dog from leaving the premises.

SECTION 11. FERAL CATS

Section 11.1 Feral Cat Colony; Management. Feral and homeless cats are a result of natural increase and a continued influx of abandoned and stray unsterilized cats. This population has been created and perpetuated by human failure to control the breeding of and take responsibility for owned cats. The non-lethal trap, neuter and return method for managing colonies is a humane and effective method to control and reduce the population of homeless cats in colonies. Sterilization decreases nuisance behaviors like roaming, marking, yowling and fighting. Vaccination and ongoing monitoring of the colonies decrease public health and safety issues while providing for the welfare of the cats themselves.

Colony Managers of managed cat colonies shall implement proper management practices as follows:

- a) Daily feeds and waters or arranges for feeding the cats including on weekends and holidays. Feeding areas should be inconspicuous and kept clean and neat; and
- b) Provides shelter from the weather as able; and
- c) Humanely traps, or makes a reasonable effort to trap all cats in the colony over twelve (12) weeks of age and has them spayed or neutered; and
- d) Identifies all spayed/neutered cats by ear tipping or ear notching. Microchipping is required to ensure that cats can be returned to the caretaker; and
- e) Takes steps that result in vaccination of all cats in the colony according to state and local laws; and
 - 1) All cats must be vaccinated at the time of spay/neuter; and
 - 2) Humanely trap and re-vaccinate cats; and
- f) Observes cats at feeding times and makes every effort to humanely trap as necessary and get veterinary care, including euthanasia if needed, for sick or injured cats in the colony; and
- g) Monitors the colony for new cats and kittens and provides care as listed above; and
- h) Obtains the approval of the owner of any property to which the Manager requires access to provide colony care; and
- i) Maintains proof of sterilization and vaccination. These records must be shown to animal control or the registering entity within 24 hours of request; and
- j) Receives training in appropriate colony management practices; and

- k) Notifies all property owners adjacent within 300 yards of a feeding station, of the managed feral cat colony; and
- l) Registers with the Brazos County Animal Shelter.
- m) Colony Managers will be held responsible for any cats that are a part of their colony and in violation of the county's ordinance or state law.

Section 11.2 Disposition of colony cats:

An animal control officer who has trapped a cat whose ear has been tipped or notched:

- Will return the cat to the colony unless veterinary care is required or the Manager is not in compliance with managed colony practices.
- Will transport the cat to the Brazos Animal Shelter for identification.

Complaints, failure to comply with management practices:

- Caretakers will have 90 (ninety) days to comply after this ordinance is passed.
- An animal control officer will determine if the description of the cat matches the description of the cat given by the complainant.
- If a cat from a managed colony is creating a nuisance, then animal control, will remove the cat.
- If the registered Manager fails to comply with the requirements for managed colonies, there will be a 30 day period to find a replacement or substitute Manager.
- If the Manager fails to comply with the requirements for managed colonies, the designated agency (registration entity) will be notified within 72 hours after removal of any animal. The designated agency will attempt to resolve the situation prior to removal of the cats by animal control.

SECTION 12. ATTACKING DOMESTIC ANIMALS – *Refer to State Laws*

SECTION 13. LEASH LAW **ALERT**** (NON-ENFORCEABLE)**

Brazos County cannot enforce the “leash law” of animals located in rural Brazos County. With this in mind the following is a **STRONG RECOMMENDATION** from the Brazos County Commissioners Court. Both cities, Bryan and College Station will have an ordinance making it unlawful for a person to operate an open bed pickup, or an open flat bed truck, or tow an open flatbed trailer on a public street or highway within their city limits while a dog or other animal occupies the bed of that truck or trailer, unless they are secured in a “pet kennel” or other secure vented enclosure, restrained by harness manufactured for the purpose of restraining animals, or a chain, rope, or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle, or from strangling on a single leash.

SECTION 14. IMPOUNDMENT FACILITIES AND FEES

Section 14.1 Animal Facilities. The Brazos County Commissioners Court may enter into contracts or agreements with public, private entities or animal shelters to provide for the impoundment of animals under this ordinance. Any animal adopted from an animal facility that has entered into a contract with Brazos County shall require that all animals adopted be spayed or neutered within forty-five (45) days of the adoption.

Section 14.2 Impoundment. Any dog or cat found to be a stray or a nuisance may be impounded in the Brazos Animal Shelter by any citizen, and confined in a humane manner. Immediately upon impoundment of the dog or cat, the Shelter shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained.

Section 14.3 Impoundment Fees. An owner of an animal that has been impounded under any section of this ordinance shall pay all applicable impoundment fees, as established by the animal facility and approved by the Animal Control Authority before retrieving the animal.

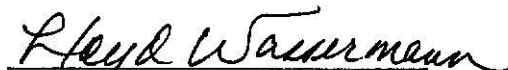
Section 14.4 Severance Clause. If any section, sentence, or clause of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 14.5 Repealer. All previously adopted rules and regulations are superseded and repealed upon the effective date of this ordinance.

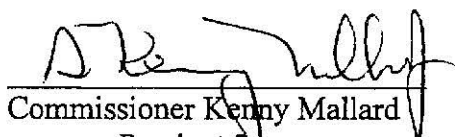
Section 14.6 Effective Date. This ordinance shall become effective upon passage by a majority vote of the Brazos County Commissioners Court.

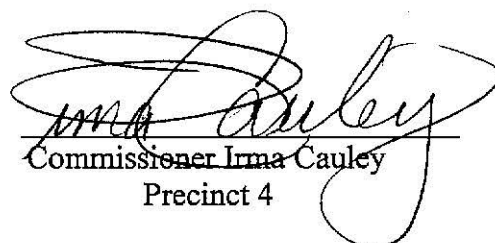
Adopted and Passed by affirmative vote on this 8th day of December, 2009.


Randy Sims
County Judge


Commissioner Lloyd Wassermann
Precinct 1


Commissioner Duane Peters
Precinct 2


Commissioner Kenny Mallard
Precinct 3


Commissioner Irma Cauley
Precinct 4