

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 intent 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 its designee shall have the duty to enforce 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 for land owners when used for ranching, hunting, farming or 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 its designee shall be authorized by this ordinance and the applicable provisions of Texas Health and Safety Code § 826.002, to capture, 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 Polk County Animal Shelter.
- 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 within 3 business days. 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 as defined in TX Health and Safety Code §821.051.

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, uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog or is a length shorter than the greater of five times the length of the dog, is measured from the tip of the dog's nose to the base of the dog's tail; or 10 feet. It is in an unsafe condition or causes injury to the dog.
- 22) EXCEPTIONS: Section VI 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 in compliance with TX Health and Safety Code § 821.079.
- 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;

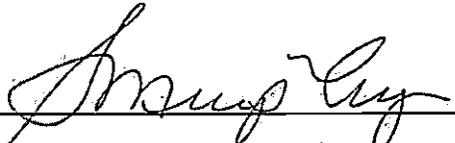
SECTION IX ORDINANCE REVIEW

- 31) 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's 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 |
| 2. First Impound Fee | \$ 35.00 |
| 3. Second Impound Fee | \$ 70.00 |
| 4. Third Impound Fee | \$ 100.00 |
| 5. Failure to provide proof of Rabies Vaccination | \$ 169.00 |
| 6. Permit Animal to Run-at-Large, (Stray) | \$ 169.00 |
| 7. Permit Animal to Run-at-Large, (Dangerous) | \$ 254.00 |
| 8. Failure to Quarantine animals | \$ 270.00 |
| 9. Cruelty or Abandonment of Animals | \$ 169.00 |

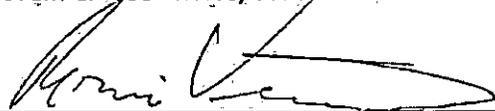
Adopted by the Polk County Commissioners Court in Regular Session duly
posted and held on August 14, 2018



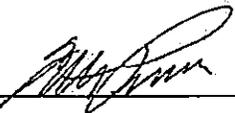
SYDNEY MURPHY, COUNTY JUDGE, POLK COUNTY, TX



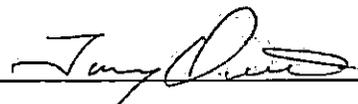
ROBERT C. "BOB" WILLIS, COMMISSIONER PRECINCT 1



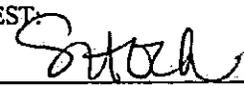
RONNIE VINCENT, COMMISSIONER PRECIENT 2



MILT PURVIS, COMMISSIONER PRECIENT 3



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

ATTEST:


SCHELANA, COUNTY CLERK

The Polk County Commissioners Court will meet on August 14th at 10:00 for the regular business meeting. During the meeting the Court will review a new **Rabies and Animal Control Ordinance** that has been put together by the volunteers of the Animal Control Committee over the past year.

The ordinance was drafted in coordination with the County Employees, the Sheriff's Department and the District Attorney's office. The new ordinance was originally developed using input from the community volunteers, County and City officials and the SPCA Board of Directors. All these teams have reviewed and approved this final submission.

The new ordinance is specifically designed to organize already existing State laws from the **Texas Health & Safety Code Chapters 821, 822 and 826** and the **Texas Penal Code Chapter 42** into local guidelines and fines in order to address the stray dog and cat problem. This is also the first time that the County will start having specifically designated funds available from fines and fees to put into the County Animal Shelter building located in Leggett, thus not requiring the County to pull from the regular County operating budget.

The Ordinance is attached below, the following is a summary:

- 1. Establishes the Sheriff's office as the official Rabies and Animal Control Authority for the County.**
- 2. Approves the Sheriff's office to fine owners who do not vaccinate animals for Rabies.**
- 3. Approves the Sheriff's office to pick up stray and unrestrained animals in the unincorporated areas of the County.**
- 4. Exempts ranchers, farmers and land owners with over 10 acres from restraining their animals.**
- 5. Approves the Sheriff's office to fine owners for any stray animals that are picked up and housed in the animal shelter.**
- 6. Approves the Sheriff's office to fine any pet owners who tortures, unlawfully restrains, or abandons animals in the County, (Dog Dumping).**

Re: proposed Polk County animal restraint ordinance.

I am in support of the proposed animal control ordinance.

I believe the provisions are reasonable and will better enable county officials to protect the public health and wellbeing.

The provisions in this ordinance also include necessary guidelines governing the humane treatment of animals and I am in favor of this as well.

Sincerely,

A handwritten signature in black ink that reads "Raymond Luna". The signature is written in a cursive, flowing style.

Raymond Luna M.D.

County health officer.

August 9th 2018

POLK COUNTY RABIES AND ANIMAL CONTROL ORDINANCE

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- 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.
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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.

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- 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.
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 - 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 publics input in the development and administration stages of this Ordinance.

SECTION X VIOLATIONS

| Polk County Animal Control Fee Amounts | |
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| 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 14th day of August, 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 August 14, 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

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- 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.
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- 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

| | |
|--|---|
| 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 xxxxxxx 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

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) 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.
- 12) 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.
- 13) 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.
- 14) 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.

- 15) 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.
- 16) 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.
- 17)

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) 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 this section, two times under Section 42.092.
- 31) The Local Rabies Control Authority or his designee shall have the ability to issue a lesser violation based on circumstances per Section 821 of the Health and Safety Code;

SECTION IX APPEAL PROCEDURES

- (a) If an Owner wants to appeal to the Commissioners Court of Polk County Texas, from an action for which the Owner was penalized under this ordinance, the Owner shall file a written appeal with the Commissioners Court within 10 days after the date the action occurred.
- (b) The appeal must include the basis for the appeal and a request for a hearing before the Commissioners Court. The appeal must also contain a statement denying the truth of the violation as made, a statement taking exception to the legal sufficiency of the violation, a statement alleging that the recommended action does not fit the violation or alleged violation, or a combination of these statements.
- (c) The appeal may be heard by either the Commissioners Court or a hearings officer designated by the Commissioners Court. In each hearing, appeal, or review of any kind in which the Commissioners Court/ hearings officer performs an adjudicatory function, the affected Owner is entitled to be represented by counsel or a person the Owner chooses. Each Commissioners Court/ hearings officer's proceeding shall be held in public.
- (d) The Commissioners Court/ hearings officer may request the attendance of witnesses and the production of documentary material.
- (e) The affected Owner may submit to the Commissioners Court/ hearings officer, records, documents, papers, accounts, or witnesses that the Owner considers pertinent to the case.
- (f) Witnesses may be placed under the rule at the Commissioners Court hearing.
- (g) The Commissioners Court shall conduct the hearing fairly and impartially and shall render a just and fair decision. The Commissioners Court may consider only the evidence submitted at the hearing.
- (h) The Commissioners Court shall maintain a public record of each proceeding with copies available at cost.
- (i) The forgoing is not intended to affect the Owner's right and/or ability to appeal a determination of animal cruelty as set forth in §821.025 of the Texas Health and Safety Code.

SECTION X INDIGENCY

The Commissioners Court of Polk County Texas shall by rule or regulation, adopt a process for determining the ability of an Owner to pay any fee/penalty set forth herein and for determining the amount each fee/penalty an Owner shall be required to pay. The Commissioners Court, in its sole discretion, may waive any fee/penalty or portion thereof following a determination that an Owner is unable to pay the full amount of any fee/penalty.

SECTION XI VIOLATIONS

| Polk County Animal Control / Animal Shelter Fee Schedule, Fee Amount and Disposition of Fee | |
|--|-----------------|
| 1. Transportation Fee (if picked up by Animal Control) | \$ TBD (35.00) |
| 2. First Impound Fee | \$ TBD (35.00) |
| 3. Second Impound Fee | \$ TBD (70.00) |
| 4. Failure to provide proof of Rabbits Vaccination | \$ TBD (35.00) |
| 5. Abandons unreasonably an animal in the person's custody | \$ TBD (100.00) |
| 6. Failure to Quarantine animals | \$ TBD (100.00) |

POLK COUNTY
RABIES AND ANIMAL CONTROL ORDINANCE

ORDINANCE OBJECTIVE:

1. *Is intended to reduce the large number of stray animals in Polk County over time.*
2. *Is intended to eliminate the dumping and abandonment of unwanted animals in Polk County.*
3. *Is intended to reduce the number of pets that are left to freely roam neighborhood streets.*
4. *Is intended to reduce the risk of animals causing injury to people and pets by other abandoned pets.*
5. *Is intended to provide Law enforcement with the tools to address county strays and abandoned pets.*
6. *Is intended to coordinate animal control and pet ownership with all county shelters and businesses.*
7. *Is intended to promote responsible and healthy animal ownership in Polk County.*

WHAT IT IS:

1. *Will address the public demand for the County to reduce the number of strays and abandoned pets.*
2. *Will formally establish an official County Rabies Control Authority and Animal Control Program.*
3. *Will reinforce the State law requiring all pets to have a rabies vaccination.*
4. *Will organize a county-wide registration of all animal shelters, breeders and sellers for improved communications and coordination regarding animal population and health issues.*
5. *Will exclude public highways and parking lots as places to sell animals from parked vehicles.*
6. *Will reinforce State law regarding cruelty to animals and establishes penalties for any occurrences.*
7. *Will exclude all property owners of five (5) or more acres from any restraint or leash requirements.*
8. *Will establish some formal processes for the County animal shelter regarding animal impoundment.*
9. *Will reinforce the State law regarding the restraint of dogs and what is allowed and not allowed.*
10. *Will offset some county and animal shelter administration costs through small fees and fines for violators.*
11. *Will establish penalties for violations and serve as a deterrent to irresponsible animal ownership.*

WHAT IT IS NOT:

1. *Does not override any established City ordinances or HOA/POA's rules.*
2. *Does not prevent anyone from sheltering, breeding or selling animals in the County.*
3. *Does not limit the number of animals a person can own.*
4. *Does not establish a County TNR program, only agrees not to euthanize TNR animals on a program.*
5. *Does not prevent any specific breed of dog or cat from being owned as a pet.*
6. *Does not require people to keep animals on a leash at all times.*
7. *Does not direct law enforcement to inspect people's property for violations, rather allow them to respond to complaints and prevent further violations and injury to the public.*

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 the unincorporated areas of Polk County.
- 2) These rules are not intended to supersede any existing City ordinances or any existing HOA/POA rules within Polk County.

SECTION II. DEFINITIONS

- 3) For purposes of these rules, certain terms and words are hereby defined. Words used in the present tense include the future; a singular number includes the plural and the singular; reference to the male gender includes the female gender, and reference to any person or animal without specifying gender includes both male and female; the word "shall" is mandatory. The words "animal," "cat," "dog," "quarantine," "rabies," "licensed veterinarian," "vaccinated" and "currently vaccinated" shall have the same meaning as provided by or used in the Rabies Control Act of 1981, promulgated at Chapter 826 of the Texas Health and Safety Code, and the Rules of the Texas Department of Health, promulgated pursuant to the Rabies Control Act of 1981.
 - a) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.
 - b) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.
 - c) "Animal Control Officer" means the person or persons employed by the Polk County Sheriff's office or his designee and shall have the duty to enforce these rules.
 - d) "Animal Establishment" means any facility wherein any person, organization, business or corporation engages in the boarding, breeding, buying, selling, adopting, letting for hire, or training for a fee any canine or feline animal or animals, or wherein any person keeps, harbors, possesses, or maintains more than ten (10) dogs or ten (10) cats or a combination of said animals.
 - e) "Bite" means any abrasion, scratch, puncture, tear, or piercing of the skin actually or suspected of being caused by an animal.
 - f) "Breeder" means a person or business that has bred, sold, or adopted out all or part of 2 or more litters or 10 or more dogs or cats during the past 12-months. Breeders are required to be registered and there are mandatory inspections.
 - g) "Official Rabies Certificate" means a certificate bearing the signature of a licensed veterinarian, rabies tag number, the name, color, sex, species, age, and breed of a dog or cat, the name and address of the owner, the date of the vaccination, the date, serial number, producer, and type of vaccine administered, and such other information as required by the minimum standards for vaccination certifications approved by the Texas Board of Health, in accordance with TX. HEALTH & SAFETY CODE § 826.021(b) and Texas Administrative Code Rule §169.29 Vaccination Requirements.
 - h) "Collar" means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.
 - i) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.
 - j) "Custodian" means a person who feeds, shelters, harbors, or has possession or control, or has the responsibility to control, a dog or cat.
 - k) "Dangerous dog" means any dog that has been deemed dangerous under the provisions of Chapter 822, Subchapter D of the Texas Health & Safety Code.
 - l) "Exposed to rabies" means bitten by, fought with, or consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.
 - m) "Feral Cat" means a descendant of a domesticated cat that has returned to the wild. It is distinguished from a stray cat, which is a pet cat that has been lost or abandoned, while feral cats are born in the wild. The offspring of a stray cat can be considered feral if born in the wild.
 - n) "Impound" means apprehend, catch, trap, net, tranquilize, or confine.
 - o) "Impounding facility" means any premises designated by Polk County for the purpose of impounding, destroying, or caring for animals found in violation of these rules.
 - p) "Local Rabies Control Authority" means the person duly appointed by the Polk County Commissioners Court to supervise the enforcement of these rules.
 - q) "Owner" means any individual, corporation, association, or any other legal entity that harbors, shelters, keeps, controls, manages, possesses, or has part interest in any animal subject to these rules. The occupant of any premises

on which a dog or cat, or other animal remains, or to which it customarily returns periodically for food, water, or shelter, is presumed to be harboring, sheltering, or keeping the aforementioned animal, within this definition. If a minor owns a dog or cat or other animal subject to the provisions of these rules, any adult occupant of the household of which such minor is a member shall be deemed to be the owner or custodian of such dog or cat or other animal for the purpose of these rules and shall be held responsible as the owner or custodian. If not a member of a household, such minor owner shall himself be directly subject to the provisions of these rules.

- r) "Registered" means registered with the Polk County Rabies Control Authority or his Designee.
- s) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.
- t) "Restraint" means the control of an animal under any of the following circumstances:
 - (i) When it is controlled by a lead, line, or leash that is secured to a secure object or held by a person who is capable of controlling and governing the animal in question.
 - (ii) When it is within a fully enclosed vehicle;
 - (iii) When it is on the premises of the owner and/or custodian;
 - (iv) When it is restrained securely within an enclosure or fence; or
 - (v) When it is under the physical control of the owner or custodian.
- u) "Stray" means any dog or cat running free from the owner's or custodian's premises or control without restraint. "Trap Neuter Release (TNR)" means a program designed for the catching of feral cats of Polk County, altered as to no longer allow reproduction and then returned or released to the area they originated.
- v) "Temporary Ownership" means the provisional assumption of ownership for the purpose of preventative immunizations and treatment, including emergent humane euthanasia as directed by a licensed veterinarian in the event of suffering, during an animal's stray hold period at an impound facility.

SECTION III. LOCAL RABIES CONTROL AUTHORITY

- 4) The Polk County Sheriff's Office is hereby designated as the Local Rabies Control Authority for purposes of these rules.
- 5) 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;
 - (b) The rules of the Texas Board of Health which comprise the minimum standards for rabies control in the State of Texas;
 - (c) The Polk County Rules to control rabies adopted herein; and
 - (d) The rules adopted by the Texas Board of Health concerning quarantine provisions of the Rabies Control Act of 1981.

SECTION IV. VACCINATIONS

- 6) 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 the rules of the Texas Board of Health, 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 V. RABIES CONTROL AND QUARANTINE

- 7) 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 the rules of the Texas Board of Health, and amendments thereto.
- 8) Any person having knowledge of an animal bite to a human must report the incident to Animal Control as soon as possible. Animal Control shall obtain custody of the animal in accordance with subsection C of Section 4 of these Regulations and investigate each bite incident.
- 9) 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.
- 10) 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.
- 11) A quarantine is 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 VI. ANIMAL ESTABLISHMENT

- 12) Every Animal Establishment that operates a facility Polk County shall register with the Local Rabies Control Authority and shall provide proof of a facility inspection by a licensed veterinarian. This inspection shall be on a form as provided and prescribed by the Local Rabies Control Authority. The registration period shall be on a calendar year basis, and registration shall be submitted no later than the 15th day of January each calendar year or within 15 days from the commencement of

operation of an Animal Establishment. The Local Rabies Control Authority or his designee may make unannounced inspections as appropriate to investigate an allegation of neglect or abuse.

- 13) Any individual or business that breeds, sells, or adopts 10 or more dogs or cats in a 12-month period must register with the Local Rabies Control Authority and shall provide proof of a facility inspection by a licensed veterinarian. This inspection shall be on a form as provided and prescribed by the Local Rabies Control Authority. The registration period shall be on a calendar 3-year basis, and registration shall be submitted no later than the 15th day of January each calendar year or within 15 days from the commencement of operation of an Animal Establishment. The Local Rabies Control Authority or his designee may make unannounced inspections as appropriate to investigate an allegation of neglect or abuse.
- 14) Failure to register timely as an Animal Establishment shall be a violation of this ordinance and punishable under Section XIII of this Ordinance.
- 15) Animal shelter employees, volunteers and foster care personnel shall be exempt from this section if included on the current registration form with the Local Rabies Control Authority.

SECTION VII. TRAP NEUTER AND RELEASE PROGRAM

- 16) If a community funded and managed TNR program is established in Polk County that includes non-owned or feral, non-socialized and non-adoptable cats, they will be exempted from impoundment. The cats participating in the TNR program shall be examined by a licensed veterinarian prior to alteration. Surgical alteration shall be performed by a licensed veterinarian using humane and appropriate anesthesia, pain management, age appropriate alteration and an ear notch for visible marking of having been altered. Additionally, each cat altered shall receive a rabies immunization prior to release. Once fully recovered from alteration surgery, each cat shall be released back to the citizen who brought in the feral cat and returned to its previous location and shall be allowed to live as it had prior to its sterilization.

SECTION VIII. REGULATION OF SALE AND SOLICITATION OF LIVE ANIMALS

- 17) The sale of live animals is banned if it occurs on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.
- 18) The erection, maintenance, or placement of a structure by a vendor of live animals is banned from a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.

SECTION IX. CRUELTY TO NONLIVESTOCK ANIMALS

- 19) Section 42.092 "Cruelty of Non-Livestock Animals" of the Texas Penal Code 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;
- 20) 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 this section, two times under Section 42.092.
- 21) The Local Rabies Control Authority or his designee shall have the ability to issue a lesser violation based on circumstances.

SECTION X. RESTRAINT AND IMPOUNDMENT

- 22) All dogs and cats shall be kept under restraint, as defined in Section II., Subsection T above.
- 23) Dogs may be used for ranching/hunting/farming/guarding on parcels larger than 5 acres while off a leash and with the permission of the landowner.
- 24) 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.
- 25) The Local Rabies Control Authority or his designee shall be authorized by these rules 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.
- 26) The Local Rabies Control Authority or his designee shall be authorized to enter upon any public highway, street, alley, court, square, park, or sidewalk or any other public grounds in order to seize any stray dog or cat. The Local Rabies Control

Authority or his designee shall be authorized to enter upon any private property to seize a stray dog or cat under the following circumstances:

- (a) With permission of the occupant or owner thereof;
 - (b) With a valid warrant authorizing such entry;
 - (c) In an emergency under the auspices of a commissioned law enforcement officer; or
 - (d) Under exigent circumstances in which a pursuing Animal Control Officer has actually observed a dog or cat to be free-roaming and the officer believes it is necessary to immediately act to seize the animal in order to protect or prevent injury to a person, property, or another animal.
- 27) 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.
- 28) Every stray animal impounded shall become the property of Polk County or its designee, pending the expiration of the stray hold period, during which at any time an "Owner" may reclaim ownership. Each healthy, appropriate aged impounded animal will show proof of rabies' vaccinations upon pickup.
- 29) All dogs or cats delivered to an impounding facility under these rules shall remain impounded therein, unless claimed and redeemed, for a period of at least seventy-two (72) hours (excluding weekends & holidays), beginning at five o'clock p.m. (5:00 p.m.) on the day the animal is collected by or delivered to the Animal Control Authority or Animal Shelter. At the expiration of that time, impounded animals that are not claimed and redeemed by the owner or custodian may be put up for adoption, sold, or humanely destroyed. All actions involving the care and disposition of animals impounded at the impounding facility shall be consistent with the requirements of the Animal Welfare Act (7 U.S.C. §§ 2131, etseq.).
- 30) 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 charged from time-to-time with approval of the Commissioners Court.
- 31) No person shall interfere with, hinder, or molest any Animal Control Officer, or other party designated by the Local Rabies Control Authority or his designee, in the performance of any duty delegated hereunder, or seek to release any animal taken and held in custody under the provisions of these rules, except as provided herein.
- 32) Failure to comply with these rules on animal restraint shall subject the owner or custodian of the unrestrained animal to citation and punishment in accordance with TX. HEALTH & SAFETY CODE § 826.034.
- 33) Every dog that has been deemed to be a dangerous dog shall be confined in an enclosed structure of not less than six (6) feet in height. Such structure, if made of wire, shall be no less than nine (9) gauge. The enclosure shall be secured at all times by a locking device capable of preventing the animal from escaping the enclosure without control of the owner or his designee. The locking device shall also be sufficient to prevent unauthorized persons from opening the enclosure on their own and require a key or combination or breach. The dangerous dog shall be registered in accordance with § 822.042 TX. HEALTH & SAFETY CODE. Failure to register or secure a dangerous dog as required herein will subject the owner of the animal to criminal penalties prescribed by TX. HEALTH & SAFETY CODE § 822.035 and § 826.045.

SECTION XI: UNLAWFUL RESTRAINT OF DOGS

- 34) 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 821.081 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.
- 35) 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
- 36) 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.
- 37) 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.
- 38) EXCEPTIONS. Section XI 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 XII VIOLATION AND ENFORCEMENT OF UNLAWFUL RESTRAINT

- 39) A person commits an offense if the person knowingly violates this subchapter.
- 40) A peace officer or Animal Control Officer 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.
- 41) A person commits an offense if the person is provided a statement described by Subsection (b) 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.
- 42) 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.
- 43) If a person fails to comply with Subchapter D, 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.
- 44) If conduct constituting an offense under Subsection D, Chapter 821 of the Texas Health and Safety Code also constitutes an offense under any other law, the actor may be prosecuted under Subchapter D, Chapter 821 of the Texas Health and Safety Code, the other law, or both.
- 45) Sec. 821.080. DISPOSITION OF PENALTY. Notwithstanding any other law, the clerk of a court that collects a penalty under Subchapter D, Chapter 821 of the Texas Health and Safety Code shall remit the penalty collected for deposit in the general fund of the county.

SECTION XIII VIOLATIONS

| Polk County Animal Control/Animal Shelter Fee Schedule, Fee Amount and Disposition of Fee | | |
|--|----------|--------------|
| 1. Transportation Fee (if picked up by Animal Control) | \$ 35.00 | General Fund |
| 2. First Impound Fee | \$ 35.00 | General Fund |
| 3. Second Impound Fee | \$ 70.00 | General Fund |
| 4. Third and Subsequent Impound Fee | \$100.00 | General Fund |
| 5. Sale and solicitation of live animals (per animal) | \$250.00 | General Fund |
| 6. Unlawful Restraint of an animals | \$100.00 | General Fund |
| 7. Failure to provide proof of Rabbits Vaccination | \$ 50.00 | General Fund |
| 8. Failure to Quarantine animals | \$100.00 | General Fund |
| 9. Transportation for Quarantine Animals | \$50.00 | General Fund |
| 10. Failure to register and maintain a Dangerous Animals | \$250.00 | General Fund |
| 11. Transportation of Dangerous Animals | \$100.00 | General Fund |
| 12. Registration as an Animal Breeder | \$ 35.00 | General Fund |
| 13. Failure to register as an Animal Breeder | \$150.00 | General Fund |
| 14. Failure to register as an Animal Shelter | \$250.00 | General Fund |
| 15. Abandoning Animals | \$250.00 | General Fund |
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RESOLUTION AND ORDER

On this the xxth day of xxxxxxx, 2017, 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 xxxx. 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, 2017.

POLK COUNTY, TEXAS

SYDNEY MURPHY, COUNTY JUDGE

ROBERT C. "BOB" WILLIS, COMMISSIONER PRECINCT 1

RONNIE VINCENT, COMMISSIONER PRECINCT 2

MILT PURVIS, COMMISSIONER PRECINCT 3

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

Author: Gary Ashmore, Revision 5: 10/17/2017 Sydney Murphy, Revision: 10/20/2017