

STATE OF TEXAS

IN THE COMMISSIONERS COURT

COUNTY OF BANDERA

RABIES AND ANIMAL CONTROL ORDER

WHEREAS, it is the desire of this Court to revise the following regulations concerning vaccination of animals, reporting of human exposure to rabies, quarantine and testing of biting animals, reduction of the stray animal population, restraint of dangerous dogs, treatment of animals, and prohibition of dogs running at large; and to prescribe penalties for violation of such provisions in accordance with Chapters 821, 822 and 826, *Texas Health and Safety Code, V.T.C.A., Texas Transportation Code*, and the Order herewith.

Whereas these Regulations are promulgated pursuant to and in conformity with the following statutory authority:

The Rabies Control Act of 1981, specifically including the authority granted in sections 826.014, 826.017, 826.031 and 826.033 of that Act, located in Chapter 826 of the *Texas Health and Safety Code* and the rules promulgated thereunder.

Subchapter D, Chapter 822 of the *Texas Health and Safety Code*, specifically including the authority granted in § 822.047 which provides for the regulation of dangerous dogs.

Subchapter D, Chapter 821 of the *Texas Health and Safety Code*, specifically the authority granted in sections 821.076 and 821.077 relating to the unlawful restraint of dogs.

Subchapter A, Chapter 821 of the *Texas Health and Safety Code*, specifically the authority granted in sections 821.002 and 821.004 relating to the treatment of animals and the knowledge or acts of corporate agent or employee.

Subchapter B, Chapter 7 of the *Penal Laws of Texas*, specifically the authority granted in sections 7.21 and 7.22 relating to the criminal responsibility of corporations and associations.

Subchapter E, Chapter 12 of the *Penal Laws of Texas*, specifically the authority granted in section 12.51 relating to the penalty for corporations and associations.

Whereas it is the purpose of this Court to exercise its authority to impose reasonable and uniform regulations for animal control in Bandera County, Texas. These regulations are adopted to protect the health, safety and general welfare of people in Bandera County and also to protect the health, safety and general welfare of animals including the prevention of the spread of rabies and other zoonotic diseases and by reducing the risk of injury to people and animals from animals kept in Bandera County, Texas.

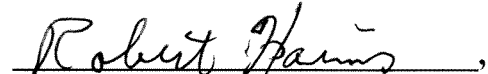
including the prevention of the spread of rabies and other zoonotic diseases and by reducing the risk of injury to people and animals from animals kept in Bandera County, Texas.


NOW, THEREFORE BE IT ORDERED BY THE COMMISSIONERS COURT OF BANDERA COUNTY, TEXAS, that the following provisions be adopted, this the 9 day of April, 2009.

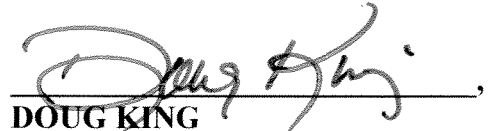
Superseding all prior Order which have been adopted by Commissioners Court of Bandera County, Texas.



RICHARD A. EVANS, COUNTY JUDGE


H. BRUCE ELIKER
COUNTY COMMISSIONER,
PRECINCT ONE (1)

ROBERT HARRIS
COUNTY COMMISSIONER,
PRECINCT TWO (2)

RICHARD KEESE
COUNTY COMMISSIONER,
PRECINCT THREE (3)

DOUG KING
COUNTY COMMISSIONER,
PRECINCT FOUR (4)

ATTEST:



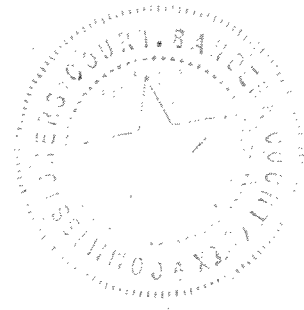
CANDY WHEELER
COUNTY CLERK

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SECTION 1 - DEFINITIONS

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

- 1.1 **ANIMAL CONTROL OFFICER:** Any person designated by the Bandera County Commissioners Court or its designee who is qualified to enforce the provisions of these regulations
- 1.2 **ANIMAL DEALER:** Any person, partnership or corporation engaging in the business of buying, selling or trading animals to others; including, but not limited to, sales of any animal at a roadside stand, booth, flea market, or other temporary site. This definition does not include non-profit animal shelters, rescue groups, or government operated animal shelters. Excluding domestic livestock.
- 1.3 **ANIMAL ESTABLISHMENT:** Any facility or business that has custody or control of animals within Bandera County, Texas including, but not limited to, pet shops, pet grooming facilities or commercial kennels. This term does not include veterinary or medical facilities or research facilities.
- 1.4 **BITE:** Any abrasion, puncturing, tearing, or scratching of the skin that causes bleeding caused by or suspected of being caused by an animal.
- 1.5 **CAT:** Felis Catus.
- 1.6 **BANDERA COUNTY:** Bandera County, Texas, a political subdivision of the State of Texas. The terms "Bandera County," "County," and "Bandera County, Texas" are synonymous.
- 1.7 **COLLAR:** means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.
- 1.8 **COMMISSIONERS COURT:** Commissioners Court of Bandera County, Texas. The term "the Court" and "Commissioners Court" are synonymous.
- 1.9 **COMMUNITY LIAISON OFFICER:** A position approved by the Court to serve as LIAISON between the public and County's Animal Control Officer.
- 1.10 **CRUEL OR INHUMANE TREATMENT:** Any treatment of an animal which unreasonably deprives the animal of necessary sustenance, including necessary food, clean water and adequate shelter for protection from weather, or any treatment which constitutes torment, torture, overwork, physical abuse, mutilation, lack of proper veterinary care, unreasonable abandonment, transports or confines an animal in a cruel manner, or which causes an animal to fight with another animal.

- 1.11 DANGEROUS ANIMAL:** An animal may be declared dangerous whenever it has bitten, attacked or caused injury to any human being or other animal or poses an immediate threat of biting, attacking or causing injury to any human being or other animal.
- 1.12 DANGEROUS DOG:** A dog is dangerous if it:
- 1) 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
 - 2) 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.
- 1.13 DOG:** Canis Familiaris.
- 1.14 DOG OR COYOTE as applied to Section 11:** Includes a crossbreed between a dog and a coyote.
- 1.15 DOMESTIC ANIMAL:** Means tame, domesticated, of or pertaining to the family or household.
- 1.16 ENCLOSURE:** A cage, crate, pen, corral, case, aquarium, building, or other place used solely for the primary housing of an animal or for the transportation of an animal.
- 1.17 EXPOSED TO RABIES:** Any dog or cat or other animal (whether it has been licensed or vaccinated for rabies or not) which has been bitten, has fought with or has consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.
- 1.18 FERAL CAT:** Any cat which is too poorly socialized to be handled (and therefore must be trapped and sedated for examination) and cannot be placed into a typical pet home.
- 1.19 HOLIDAY:** Those days designated as official holidays by the Bandera County Commissioners Court.
- 1.20 HUMANELY EUTHANIZE:** To cause the death of an animal by a method which rapidly produces unconsciousness and death without visible evidence of pain or distress or utilizes anesthesia produced by an agent which causes painless loss of consciousness and death following such loss of consciousness.
- 1.21 IMPOUND:** The apprehending, catching, trapping, netting, tranquilizing, confining or, if necessary, the destruction of any animal by an Animal Control Officer.

- 1.22 IMPOUNDING FACILITY:** Any premises approved by the Texas Department of State Health Services and designated by Bandera County for the purpose of impounding or caring for all animals found in violation of these Regulations including, but not limited to, the animal shelter operated by Bandera County.
- 1.23 LICENSE:** A document issued by the County, annually, triennially, or for the lifetime of the dog or cat, in compliance with Section 15 of these regulations.
- 1.24 LICENSE TAG:** A numbered tag worn on the collar of a dog or cat which identifies that a license was issued for the animal by Bandera County.
- 1.25 LICENSED:** In regard to a dog or cat means licensed by Bandera County as required by Section 15 of these regulations.
- 1.26 LIVESTOCK:** Includes exotic livestock as defined by Section 161.001, *Agriculture Code*.
- 1.27 LOCAL RABIES CONTROL AUTHORITY:** The individual designated by the Commissioners Court under the *Texas Health and Safety Code*, Chapter 826, to enforce the provisions of this Order and state law.
- 1.28 MICROCHIP IMPLANT:** A passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for the purposes of animal identification and recovery by the animal's owners.
- 1.29 NEUTERED/SPAYED:** Any animal, male or female, rendered incapable of breeding or being bred.
- 1.30 OWNER:** Any person, partnership, corporation, association or legal entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of household of any premises where an animal remains for **five (5) days or more** shall be presumed to be the owner of such animal, unless the animal has been reported to the County Animal Services as a stray animal. An occupant of any premise on which a dog or cat remains, or customarily returns, is a person responsible for it under this chapter. If a person under the age of seventeen (17) years owns an animal subject to the provisions of this chapter, the head of the household of which such person under the age of seventeen (17) years is a member shall be the person responsible for the animal under this chapter. Such household head may himself be under the age of seventeen (17) years and therefore subject to prosecution under this chapter. There may be more than one person responsible for an animal.
- 1.31 PROPERLY FITTED:** means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one (1) inch.

- 1.32 PUBLIC NUISANCE:** The conduct of any owner in allowing an animal to :
- 1) Engage in conduct which establishes such animal as a “dangerous animal”;
 - 2) Damage, soil, defile or defecate on private property other than the owner’s or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;
 - 3) Be “at large” or “running at large” (excluding sterilized and registered cats that are identified by some means of traceable identification);
 - 4) Cause a disturbance by excessive barking or noise making near the private residence of another or to the extent that the barking or noise disturbs the peace or quiet of any neighborhood or can be heard from within the residence of another;
 - 5) Produce odors or unclean conditions sufficient to offend a person of normal sensibilities or which creates a condition conducive to the breeding of flies or other pests;
 - 6) Chase vehicles, or molest, attack or interfere with other animals, including livestock, or persons, or is at-large on public or private property (except at a designated dog park); or
 - 7) Create a condition that is dangerous to human life or health, renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses, or that is detrimental to public health.
- 1.33 RESTRAINT:** means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.
- 1.34 RUNNING AT LARGE:** Not completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal except when a dog subject to these regulations is under the direct supervision of the owner and is:
- 1) on a leash as herein above provided;
 - 2) held in the hands/arms of the owner or within the limits of the owner's private property and is obedient to that owner's verbal commands;
 - 3) within an automobile or vehicle and properly restrained; or
 - 4) participating in a field trial, dog show, or obedience classes.
- 1.35 SECURE ENCLOSURE:** A 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 the animal confined therein; clearly marked as containing a dangerous dog or a dangerous or restricted animal as required by these regulations; and
 - 4) conforms to the requirements for enclosures as may be required in writing by the Local Animal Control Authority.
- 1.36 SERIOUS BODILY INJURY:** An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent

person to seek treatment from a medical professional without regard to whether the person actually sought medical treatment.

- 1.37 STRAY:** Any animal subject to these regulations that is roaming without physical restraint and whose ownership is not readily ascertainable shall be deemed a stray and a nuisance. Absence of a current rabies tag and/or a tag identifying the owner on any animal subject to these regulations is evidence of its status as a stray; however, the display of a vaccination tag or license tag does not change the fact that the dog or cat may be a stray for the purposes of these regulations.
- 1.38 UNHEALTHFUL CONDITIONS:** A living area for dogs and cats that is not clean, free of debris and accumulated waste (including fecal matter). Where the animal is not able to walk or lie down without coming into contact with debris or waste. Where the animal is not protected from temperature extremes. Where the animal is not able to stand or turn freely without bumping into the sides or top of the living area.
- 1.39 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 licensed veterinarian.
- 1.40 VACCINATION CERTIFICATE:** A rabies document bearing the signature or signature stamp and license number of a licensed veterinarian and the following information: the rabies tag number; the name, size, color, sex, species, age and breed of a dog or cat; the name, phone number and address of the owner; the date of the rabies vaccination and the expiration date, serial number, producer of the vaccine used. Any handwritten delineation with information on the certificate shall invalidate the certificate.
- 1.41 VETERINARIAN:** Any veterinarian who is licensed to practice medicine in one or more of the fifty (50) states. Such license must be active and in good standing with the issuing agency.
- 1.42 WILD ANIMAL:** All species of animals that naturally exist in an unconfined state and are usually not domesticated shall be deemed wild. This definition shall apply whether or not the wild animal has been confined for any duration in any fashion.

SECTION 2 - RABIES CONTROL

- 2.1** Bandera County adopts this section in accordance with the provisions of Chapter 826 of the *Texas Health and Safety Code*, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.

- 2.2 VACCINATIONS:** The owner of a dog or cat shall have the animal vaccinated against rabies after the age of three (3) months and before the age of four (4) months. All animals must receive a second rabies vaccination within one (1) year from the date of receiving their first vaccination, regardless of the type of vaccine used or the age at which the animal was initially vaccinated. After the second rabies vaccination, the dog or cat must be vaccinated against rabies at least every three (3) years thereafter and in accordance with state rules. Any person moving into the County from a location outside of the County shall comply with this Section within ten (10) days after having moved into the County. Nothing in this section prohibits a veterinarian and owner from selecting a more frequent rabies vaccination interval. Failure to provide proof of vaccination when requested to do so will be deemed as no vaccination exists.
- 2.3 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:
- 1) The name, address and telephone number of the owner of the vaccinated dog or cat;
 - 2) The date of vaccination;
 - 3) The type of rabies vaccine used;
 - 4) The year and number of rabies tag; and
 - 5) The breed, age, color, and sex of the vaccinated dog or cat.
- The information contained in the certificate or record may not include the social security number or driver's license number of the owner of the vaccinated animal.
- 2.4 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 to the collar or harness of the vaccinated dog or cat this metal tag, 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 Animal Control.
- 2.5 DUPLICATE TAGS:** In the event of loss or destruction of the original tag provided in Section 2.4, the owner of the animal shall obtain a duplicate tag. Vaccination certificates and tags shall be valid only for the animal for which it was originally issued. Duplicate tags shall be purchased from the originally issuing veterinarian.
- 2.6 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. Failure to provide proof,

when requested, shall be deemed as no vaccination records exist. A rabies tag is not a substitution for a certificate of vaccination.

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

2.8 ANIMALS EXPOSED TO RABIES:

- 1) 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 County's Animal Control Officer.
- 2) Any such animal shall be impounded and placed in isolation in a facility approved by the Local Rabies 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.
- 3) 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.
- 4) If the animal's owner cannot be identified or located within forty-eight (48) hours from the time of impound, the animal may be humanely destroyed at the direction of the Local Rabies Control Authority.
- 5) 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.

2.9 PENALTY FOR VIOLATION:

- 1) Any person who violates a provision of this Section is guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
- 2) It is a defense to prosecution under Section 2.6 that the person charged produces proof of vaccination that was valid at the time the offense is alleged to have occurred.
- 3) If on the trial of an offense under this section the Court finds that the person has been previously convicted of an offense under this section, the offense is a Class "B" misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00) and/or imprisonment for a period not to exceed one hundred eighty (180) days.

SECTION 3 - REPORTING BITES FROM ANIMALS SUSCEPTIBLE TO RABIES

3.1 Any person having knowledge of an animal bite to a human or domesticated animal shall report the incident to the Animal Control Officer as soon as possible. The Animal Control Officer shall immediately obtain custody of the animal in accordance with Subsection 2 of Section 2.8 of these Regulations and shall investigate each bite incident.

- 3.2 REPORTS OF RABIES:** The report must include the following:
- 1) name and address of the victim or bitten animal and of the animal's owner, or custodian, if known; and
 - 2) any other information that may help in locating the victim, bitten animal, or the animal causing the bite.

- 3.3 QUARANTINE:** The owner must submit for quarantine an animal or submit its brain for testing that is reported to be rabid or to have exposed an individual or domesticated animal to rabies; or that the owner knows or suspects is rabid or to have exposed an individual or domesticated animal to rabies. The costs of quarantine are borne by the owner.

Quarantine shall be under the supervision of the Local Rabies Control Authority.

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 and other relevant statutes, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.

- 3.4 PENALTY FOR VIOLATION:** Any person who violates a provision of this Section may be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

SECTION 4 - QUARANTINE PROCEDURES FOR ANIMALS

- 4.1 RABIES QUARANTINE:**
- 1) When the 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 immediately produce the animal to the Animal Control Officer for ten (10) days confinement at the owner's expense.
 - 2) Refusal to produce said animal constitutes a violation of this Section which is a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).
 - 3) The ten (10) day observation period begins on the day the animal is produced for quarantine.
 - 4) The animal must be placed in an animal control facility or a veterinary hospital or such other place as approved for that purpose by the Texas Department of Health and the Local Rabies Control Authority and shall be examined by a licensed veterinarian within twenty-four (24) hours from time of quarantine.
- 4.2 HUMANE DESTRUCTION:** If the biting animal cannot be maintained in a secure quarantine or if the owner chooses not to pay for the quarantine and expenses related thereto, the animal shall be humanely destroyed under the

direction of the Local Rabies Control Authority, and the brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis, at the owner's expense.

4.3 WILD ANIMALS: No wild animals will be placed in quarantine. All wild animals involved in biting incidents shall be humanely destroyed in such a manner that the brain is not mutilated and the brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

4.4 PENALTY FOR VIOLATION:

- 1) Each of the following is a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00):
 - A) A person commits an offense if he/she knowingly fails or refuses to have each dog or cat for which that person is the custodian or defined as owner vaccinated against rabies;
 - B) A person commits an offense if he/she knowingly fails or refuses to restrain any dog or cat for which that person is the custodian or owner, in the unincorporated area of Bandera County, Texas;
 - C) A person commits an offense if he/she knowingly fails or refuses to quarantine or present for quarantine or testing an animal that is required to be placed in quarantine.
- 2) Each day an animal is not produced for quarantine shall constitute a separate offense.

SECTION 5 - RESTRAINT AND IMPOUNDMENT

5.1 DOGS/CATS PROHIBITED FROM RUNNING AT LARGE:

- 1) All dogs and cats must be kept under restraint while in the unincorporated areas of Bandera County, Texas. The custodian or owner of a dog or cat is not authorized to have, harbor or keep any unlicensed dog or cat, or to allow any dog or cat to become a stray.
- 2) The custodian or owner of every dog or cat is responsible for any behavior of a dog or cat under the provisions of these Regulations.
- 3) Animal Control Officer and/or any law enforcement officer shall have the authority to impound the following:
 - A) All unrestrained and stray dogs and cats;
 - B) Any animal that has bitten or scratched a person; and
 - C) Any animal that has been exposed to rabies.
- 4) Upon failure of the owner to claim the animal during that impound period as provided in 5.5(3), the Animal Control Officer may have the animal humanely destroyed or delivered to a rescue organization approved by County or adopted pursuant to procedures approved by County without compensation to the owner.
- 5) All animals seized and confined under this section should be impounded in an impoundment facility designated by the Bandera County Sheriff.

- 6) Animal Control Officers and law enforcement officers are authorized to enter any unsecured or unfenced lot, tract or parcel of land for the purpose of seizing any stray dog or cat.
- 7) Nothing in these regulations should be construed as authority for Animal Control Officers, employees or their agents to enter fenced, secured areas, including buildings unless:
 - A) the owner or other person with control over the premises consents to entry,
 - B) a valid warrant is obtained, or
 - C) exigent circumstances exist such that there is necessity to act immediately to protect or preserve life or to prevent injury to a person or an animal.
- 8) Any person may take and deliver to an Animal Control Officer any stray which the Animal Control Officer is, by the provisions of these Regulations, authorized to impound.
- 9) Each unrestrained stray dog or cat is a public nuisance.
- 10) When dogs or cats are stray and their ownership is known to the Animal Control Officer, the officer has the discretion to:
 - A) impound the animal; or
 - B) return the animal to owner, if known, or
 - C) cite the custodian and/or owner of the animal to appear in a **Justice of the Peace** court where the violation occurred to answer charges of violation of these regulations; or
 - D) impound the animal and cite the custodian and/or owner of the animal to appear in a **Justice of the Peace** court where the violation occurred to answer charges of violation of these regulations.

5.2 RELEASE FROM IMPOUNDMENT: No animal will be released to an owner or custodian unless:

- 1) The animal has a current rabies vaccination; has been properly registered in accordance with this Order; and
- 2) All applicable impoundment fees, as set forth by the Commissioners Court, have been paid. See Schedule I for fees.

5.3 RESTRAINT REQUIRED:

- 1) The owner or custodian of each dog or cat shall restrain the animals and prevent them from running at large.
- 2) Each unrestrained, unowned, or stray dog or cat is hereby declared a public nuisance.
- 3) For purposes of this section, "restrained" shall mean that the dog or cat is:
 - A) physically restrained by a leash, fence, pen, or other device; or
 - B) physically located on the property of the owner or custodian.

5.4 STANDARDS OF COUNTY ANIMAL CONTROL FACILITY AND ANIMAL CONTROL OFFICER:

- 1) The County's Animal Control Facility shall be maintained in a humane and sanitary manner that meets the minimum requirements of Chapter 823, *Texas Health and Safety Code*, to the extent possible.
- 2) The County Animal Control Facility shall be inspected yearly by The Local Rabies Control Authority who shall make a report to Commissioners Court with regards to the condition of the facility and recommendations regarding same.
- 3) Any animal impounded in the County's Animal Control Facility that is sick, injured or diseased shall be reported immediately to a licensed veterinarian. A report shall be made of each such occurrence and filed with the Bandera County Sheriff and the Community Liaison on Animal Control Issue.
- 4) A report shall be filed with the Sheriff's Office and the Community Liaison on Animal Control Issues if any animal is injured or dies while at the facility or in route to the Facility.
- 5) The County Animal Control Facility shall include at least one (1) kennel to be used to quarantine animals that meets the minimum requirements as provided in Section 826.051, *Texas Health and Safety Code*, and the requirements of the Local Rabies Control Authority.
- 6) Any individual, including peace officers, employed as a County Animal Control Officer shall complete a basic animal control course as provided in Section 829 of the *Texas Health and Safety Code* within six (6) months from the date the person assumes animal control duties and no less than once a year thereafter.
- 7) The Local Rabies Control Authority, any Animal Control Officer, or any peace officer is authorized to, including but not limited to:
 - A) Humanely euthanize an animal which poses an imminent danger to a person or property or when a real or apparent immediate necessity exists for the destruction of the animal;
 - B) Impound an animal which is diseased or endangers the health of a person or another animal;
 - C) Impound any animal found to be running at large within the County;
 - D) Humanely euthanize an impounded animal if the animal is suffering from injury, disease, or illness after consulting with veterinarian and local animal rescue;
 - E) Humanely euthanize any animal suspected of having rabies, or which animal manifests a disposition to bite, when such animal(s) is found at large after having made a reasonable, but unsuccessful effort to capture the animal;
 - F) Humanely euthanize any impounded dangerous animal immediately upon impoundment, unless there is reason to believe that it has an owner;

- G) Humanely euthanize any wild animal, suspected of being rabid, immediately upon impoundment, so long as such act does not violate state or federal laws;
- H) Humanely euthanize any nursing domestic baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering after attempted animal rescue placement;
- I) Humanely euthanize an animal when an owner no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition upon the owner signing a waiver, supplied by the animal shelter, allowing the animal to be immediately euthanized, after attempted animal rescue placement.
- J) Humanely euthanize or transfer to a humane organization any impounded animal that is to be destroyed as a result of the animal being impounded more than five (5) days.

5.5 ELIMINATION OF STRAY ANIMALS:

- 1) When practical, the Animal Control Officer shall impound any animal, including feral animals, subject to these regulations which is found to be a stray.
- 2) The animal will be impounded for **five (5) days, not counting the day of impoundment**, not counting weekends and holidays after which time the animal becomes the property of Bandera County. The only exception is that if in the opinion of the Local Animal Control Officer or a licensed veterinarian the animal is so feral, sick or injured that it would not survive the impoundment period, is a danger and/or to prevent suffering by the animal, it can be immediately destroyed. At the discretion of the Animal Control Officer the animal may be kept for a period longer than five (5) days if there is sufficient room at the Animal Control Facility to house the animal.
- 3) 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 as set out in **SCHEDULE I** attached hereto or as may be modified by Commissioners Court.
- 4) Upon failure of the owner to claim the animal during that period, the Animal Control Officer may have the animal humanely destroyed without compensation to the owner.
- 5) At the expiration of the impound period described in (2) above, if the dog or cat has not been claimed or redeemed by the owner, it may be put up for adoption or transferred to an animal welfare organization.
- 6) If any animal found at large in violation of this Section cannot be safely taken up and impounded, such animal may, if deemed necessary, be destroyed by any authorized Animal Control Officer or Law Enforcement Officer. A report shall be made and filed with the Bandera County Sheriff and the Bandera County Attorney regarding any dog or cat destroyed under these circumstances.

- 7) Any person may request trap-neuter-return for any feral cat picked up from their property. Upon due consideration, an Animal Control Officer has the option to allow trap-neuter-return for any feral cat impounded, provided the property owner agrees in writing to the return of the animal and to accepting all ownership responsibilities of said animal.
- 8) When an animal running at large has been impounded three (3) times in a twelve (12) month period, prior to release the animal must:
 - A) Be microchipped; and
 - B) An appointment must be made, with the veterinarian of the Owner's choice, to have the animal spayed/neutered within thirty (30) days of release. A letter, from the veterinarian, must be sent to the Community Liaison on Animal Control Issues within seven (7) days of the completion of the procedure. Violation of this section is a Class "C" misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00).

SECTION 6 - TREATMENT OF ANIMALS

6.1 PROHIBITION OF INHUMANE OR CRUEL TREATMENT:

- 1) Any inhumane or cruel treatment of any type of animal shall be deemed a nuisance.
- 2) It shall be unlawful for a person to intentionally, knowingly, recklessly or with criminal negligence, by act or omission, treat an animal inhumanely or cruelly or to subject the animal to unhealthful living conditions.
- 3) All persons residing in Bandera County who own domestic dogs or cats must keep such animals at the residential premises permanently occupied and inhabited by the animals owners, or appropriate humane shelter as deemed suitable by the county Animal Control Officer.
- 4) No person shall leave any domestic animal in any unattended motor vehicle without adequate ventilation, sanitary conditions, or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health and safety.
- 5) Any Animal Control Officer or State Peace Officer is hereby authorized to obtain a seizure warrant from the Justice of the Peace or other court of competent jurisdiction to seize any animal that the Officer has probable cause to believe is being cruelly treated and in compliance with Section 821.022 of the *Texas Health and Safety Code*.
- 6) Bandera County adopts the Sections 42.10 of the *Texas Penal Code* relating to the prosecution and punishment of dog fighting.

6.2 SEIZURE AND NOTICE OF HEARING: The officer executing the warrant shall seize the animal and give written notice to the owner of the time and place of the hearing.

6.3 HEARING: A hearing must be held within ten (10) days of the date the warrant is issued.

- 6.4 PUBLIC AUCTION:** An animal found by the court to have been cruelly treated may be sold at public auction, given to an animal rescue organization, placed for adoption, or the animal may be ordered to be humanely destroyed. At an auction authorized by 821.023(d) of the *Texas Health and Safety Code*, a bid by the animal's former owner or that person's agent may not be accepted.
- 6.5 EUTHANIZATION:** Euthanization of an animal must be performed in accordance with Chapter 821, Subchapter C of the *Texas Health and Safety Code*.
- 6.6 PENALTY FOR VIOLATION:** A person who mistreats an animal is subject to prosecution in County Court or District Court under Section 42.09 of the *Texas Penal Code* (relating to livestock) or Section 42.092 of the *Texas Penal Code* (relating to non-livestock) or Section 42.10 of the *Texas Penal Code* (relating to dog fighting). Violations range from Class "A" misdemeanors to third degree felonies.

SECTION 7 - PROTECTION OF LIVESTOCK, DOMESTIC ANIMALS AND FOWL

7.1 ANIMAL ATTACKING LIVESTOCK, DOMESTIC ANIMALS OR FOWL:

- 1) An animal that is attacking, is about to attack, or has recently attacked livestock, domestic animals, or fowl may be killed by any person witnessing the attack.
- 2) A person who kills an animal that is attacking, is about to attack or has recently attacked livestock, domestic animals, or fowl is not liable for damages to the owner of the animal.
- 3) Any person in possession or control of an animal that is known to have attacked livestock, domestic animals, or fowl shall turn the animal over to the Animal Control Officer.

7.2 Any person in possession of or in control of an animal that is known to have attacked livestock, domestic animals, or fowl shall immediately turn the animal over to the Animal Control Officer to be impounded until such time as the Court orders final judgment.

- 7.3**
- 1) Any person witnessing an incident described by Section 7.1 above may file a report with the Animal Control Officer.
 - 2) The Animal Control Officer, upon determining if the report merits further action, shall file a complaint in County Court; and
 - 3) The Animal Control Officer shall take possession of the animal. The owner of the animal shall deliver the animal to the Animal Control Officer upon request to do so by the Animal Control Officer.

- 7.4** 1) If the owner fails to deliver the animal as herein above required, the Court shall order the Animal Control Officer to seize the animal and shall issue a warrant authorizing the seizure.
- 2) The Animal Control Officer shall seize the animal or order its seizure and shall provide for the impoundment of the animal in secure and humane conditions until the Court orders the disposition of the animal.
- 7.5** The owner shall pay any cost incurred in seizing the animal as well as housing and caring for the animal as herein provided.
- 7.6** 1) The Court after receiving a complaint under this section shall set a time for hearing to determine whether the animal is a danger to livestock, domestic animals or fowl as herein provided.
- 2) The hearing must be held no later than the tenth day after the date on which the owner of the animal receives notice the complaint has been filed.
- 7.7** The Clerk of the Court shall give written notice of the time and place of the hearing to:
- 1) the owner of the animal or the person from whom the animal was seized; and
- 2) the person who made the report.
- 7.8** The Court may order the animal destroyed if the Court finds that the animal is:
- 1) a danger to livestock, domestic animals or fowl; or
- 2) the owner, custodian or person in control of the animal has not made adequate provisions to keep the animal from running at large.
- 7.9** If that finding is not made, the Court shall order the animal released to its owner or any person authorized to take possession of the animal.
- 7.10** **PENALTY FOR VIOLATION:** Any person who violates a provision of this Section may be guilty of a Class “C” misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

SECTION 8 - UNLAWFUL RESTRAINT OF DOGS

- 8.1** Bandera County adopts this section in accordance with the provisions of Chapter 821; Subchapter “D” of the *Texas Health and Safety Code*, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.
- 8.2** **UNLAWFUL RESTRAINT:**
- 1) 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 10:00 pm and 6:00 am; or
- b) within 500 feet of the premises of a school; or

- c) in the case of extreme weather conditions, including conditions in which:
 - A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit; or
 - 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 for the jurisdiction by the National Weather Service.
- 2) In this section, a restraint unreasonably limits the 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; or
 - b) is a length shorter than the greater of:
 - A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - B) 10 feet; or
 - c) is in an unsafe condition; or
 - d) causes injury to the dog.

8.3 EXCEPTIONS: This section does not apply to:

- 1) 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; or
- 2) 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; or
- 3) a dog restrained for a reasonable period, not to exceed three hours in a twenty-four (24) hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained; or
- 4) 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; or
- 5) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
- 6) 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.

8.4 VIOLATIONS AND PENALTY FOR VIOLATION:

- 1) A person commits an offense if the person knowingly violates this subchapter.
- 2) 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.

- 3) A person commits an offense if the person is provided a statement described above and fails to comply with Subchapter D, Chapter 821 of the *Texas Health and Safety Code* within twenty-four (24) hours of the time the owner is provided the statement. An offense under this subsection is a Class “C” misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00).
- 4) A person commits an offense if the person violates Subchapter D, Chapter 821 of the *Texas Health and Safety Code* and previously has been convicted of an offense under Subchapter D, Chapter 821 of the *Texas Health and Safety Code*. An offense under this subsection is a Class “B” misdemeanor punishable by a fine not to exceed two thousand dollars (\$2000.00) and imprisonment of no more than one hundred eighty (180) days.
- 5) 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.
- 6) 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. Section 821.080.

SECTION 9 - OWNERSHIP OF DANGEROUS DOGS

9.1 REQUIREMENTS FOR OWNER OF A DANGEROUS DOG: An owner of a dangerous dog must:

- 1) Register the dangerous dog with the Bandera County Sheriff’s Office for the area in which the dog is kept. A copy of the registration shall be provided by the Sheriff’s Office to the County’s Community Liaison for Animal Control Issues.
- 2) Pay an annual fee of one hundred dollars (\$100.00) to the County.
- 3) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure which has been approved by the County’s Animal Control Officer.
- 4) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and be capable of being read from a public street or highway.
- 5) Spay or neuter the dangerous dog.
- 6) Obtain necessary insurance or show financial responsibility in the amount of at least one hundred thousand dollars (\$100,000.00) to cover damages to persons and property resulting from a dog attack and provide proof of same at the time of registration.

9.2 LIMITATION OF OWNERSHIP OF DANGEROUS DOGS: Only one (1) dangerous dog may be owned per household.

9.3 DECLARATION OF A DANGEROUS DOG:

- 1) The Animal Control Officer may find and declare a dog to be dangerous or potentially dangerous if Animal Control Officer has probable cause to believe that a dog committed any of the acts described in the definition of Dangerous Dog (Section 1.12), or that the dog repeatedly bit or vigorously shook its victim and the victim, or a person intervening, had difficulty terminating the attack; or
- 2) Upon receipt of an affidavit of complaint signed by one or more individuals, made under oath before an individual authorized by law to take sworn statements or made at the Animal Control Office, setting forth the nature and the date of the act, the location of the event, the name of the owner of the dog, the address of the owner, and the description of the dog doing such act, the Animal Control Officer shall investigate the complaint and determine if a dog is dangerous.

9.4 NOTIFICATION OF DECLARATION OF DANGEROUS DOG:

- 1) Within five (5) working days of declaring any dog dangerous or potentially dangerous, Animal Control shall notify in person or by regular mail and by certified mail, return-receipt requested, the owner of the dog(s) designated as dangerous. Animal Control shall also post a written notice at the entrance of the premises where the dog is harbored capable of being read from a public street or highway.
- 2) Receipt of said notice shall be presumed upon proof of either of the following occurrences:
 - A) Affidavit by Animal Control that a notice was personally served to the owner of the dog(s);
 - B) Return of an executed return-receipt;
 - C) Affidavit by Animal Control of deposit to the United States Postal Service of a correctly addressed notice; or
 - D) Affidavit by Animal Control of posting of the notice at the premises where the dog was harbored.
- 3) All owners may appeal this declaration to a Justice Court of competent jurisdiction. If the dog is declared to be dangerous, the notice shall inform the owner of the dog that a determination hearing may be requested to contest the declaration. The request for a determination hearing must be in writing and must be received by the appropriate Justice of the Peace no later than ten (10) working days from receipt of notice by the owner of the dog. Failure to appeal the declaration within ten (10) working days shall result in the Animal Control's decision becoming final. Further appeals may be pursued in the same manner as appeals for civil cases.

9.5 DETERMINATION HEARING:

- 1) Upon timely written request for a determination hearing by the owner of a dog declared dangerous, the dog in question will be subject to any behavior assessment test or any other means available to Animal Control. The results of any tests will be presented at the determination hearing and be taken into consideration for the final determination. The owner shall be responsible for any costs incurred for the test or tests to be conducted and fees of the animal behaviorist to analyze the video test or tests.
- 2) The owner shall be notified of the hearing by placing the notice in the United States mail, certified, return receipt requested addressed to the owner. Failure of the owner of the dog to appear at the determination hearing shall result in the Animal Control's declaration becoming final. Pending the outcome of the determination hearing, the dog may, at the discretion of the Animal Control Officer, be securely confined in a humane manner at a licensed veterinarian facility or in an animal shelter. The costs of securing the dog pending the determination hearing shall be borne by the owner.
- 3) The judge of a court of competent jurisdiction shall determine by a preponderance of the evidence whether to declare the dog a dangerous dog under this section based upon evidence, affidavits, and testimony presented at the time of the hearing.

9.6 DEFENSE TO DECLARATION OF DANGEROUS DOG: It is a defense to the determination of any dog as dangerous and/or to the prosecution of the owner of the dog:

- 1) 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;
- 2) If the person was teasing, tormenting, abusing, or assaulting the dog;
- 3) If the person was committing or attempting to commit a crime;
- 4) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
- 5) If the dog was injured and responding to pain.

9.7 DEFENSES: It is a defense to prosecution under these Regulations that a person is:

- 1) 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 dog in connection with that position;
- 2) An employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- 3) A dog trainer or an employee of a guard dog company under the Private Security Act, (Article 4413)(29bb), *Vernon's Texas Civil Statutes*.

9.8 CONFISCATION: Until the owner of a dog determined to be dangerous has met the requirements placed on that owner by Section 822.042, *Texas Health and Safety Code*, and this order, the Animal Control Officer or his designee shall confiscate the animal whether it be found on public or private property.

- 1) The Animal Control Officer shall have no authority to confiscate any animal unless the owner of the animal has received a written notice of the determination that the animal is a dangerous dog. The notice may be delivered either in person or by certified mail, return receipt requested, directed to the last known mailing address of the owner.
- 2) The Animal Control Officer shall be required to obtain a search and seizure warrant only if the dangerous dog is located within a residence.
- 3) If an attempt is made by the Animal Control Officer to impound a dangerous dog and the impoundment cannot be made safely, the owner shall be notified to immediately surrender the animal to the Animal Control Authority. The notice shall include a warning that failure to surrender the animal may result in destruction of the animal if it cannot be safely impounded on any subsequent attempt;
- 4) The animal thus confiscated shall be ordered sheltered by the Animal Control Officer for a period of seventy-two (72) hours, not counting weekends and holidays, to allow the owner to claim the animal upon satisfaction of the provisions of Sections 822.042 and 822.043 of the *Texas Health & Safety Code* and this order. Upon failure of the owner to reclaim the animal during that period, the Animal Control Officer may humanely destroy the animal without compensation to the owner;
- 5) In addition to the fees required for registration of the animal, the owner must, prior to the animal's release, satisfy all above-referenced provisions.

9.9 PENALTY FOR VIOLATION:

- 1) Any person who violates a provision of this Section may be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
- 2) Each day that a person owns a dangerous dog in violation of this Section shall constitute a separate offense.
- 3) An offense under this section is a Class "B" misdemeanor punishable by a fine not to exceed two thousand dollars (\$2000.00) and imprisonment of no more than one hundred eighty (180) days if it is shown on trial of the offense that the defendant has previously been convicted under this section.

9.10 ATTACK BY A DANGEROUS DOG: Subject to the following, Section 822.044 of *Texas Health and Safety Code* shall apply to any attack by a Dangerous Dog after such determination has been made:

- 1) After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Animal Control Office within twenty-four

(24) hours of the attack or as soon as such attack is known by any person to have occurred.

- 2) Attack on an Animal. The offense classifications of the statute (as set forth in Section 9.11 herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered with the Animal Control Office. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be surrendered to the Animal Control Office. The Animal Control Office shall schedule a hearing to be held pursuant to Section 9.5 with prior notice of such hearing to the owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed, the Animal Control Office shall humanely destroy the dog. If the Animal Control Office finds reason not to destroy the dog, and a second attack occurs, then the Animal Control Office must humanely destroy the dog.

9.11 VIOLATION AND PENALTY FOR VIOLATION: Attack by a Dangerous Dog against a person.

- 1) A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- 2) An offense under this section is a Class "C" misdemeanor punishable by a fine not to exceed five hundred dollars (\$500), unless the attack caused serious bodily injury or death (see Section 10).
- 3) If 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.

SECTION 10 - DOGS CAUSING DEATH OR SERIOUS BODILY INJURY TO A PERSON

10.1 Bandera County adopts the provisions of 822.001-822.006 of the *Texas Health and Safety Code* regarding dogs causing death of or serious bodily injury to a person, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.

10.2 ATTACK BY DOG CAUSING DEATH OR SERIOUS BODILY INJURY:

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

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

the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure and that causes serious bodily injury or death to the other person.

10.3 SEIZURE OF A DOG CAUSING DEATH OF OR SERIOUS BODILY INJURY TO A PERSON:

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

10.4 HEARING:

- 1) The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the tenth (10th) day after the date on which the warrant is issued.
- 2) The court shall give written notice of the time and place of the hearing to:
 - A) the owner of the dog or the person from whom the dog was seized; and
 - B) the person who made the complaint.
- 3) Any interested party, including the County Attorney, is entitled to present evidence at the hearing.
- 4) The court shall order the dog destroyed if the court finds that the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:
 - A) its owner;
 - B) the person from whom the dog was seized; or
 - C) any other person authorized to take possession of the dog.
- 6) The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:
 - A) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:

- a) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
- b) the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- B) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred.
- C) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
- D) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
- E) the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

10.5 DESTRUCTION OF DOG: The destruction of a dog under this section must be performed by:

- 1) a licensed veterinarian;
- 2) personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or
- 3) personnel of Animal Control who are trained in the humane destruction of animals.

10.6 PROVOCATION OR LOCATION OF AN ATTACK IRRELEVANT: Except as provided by Subsection 10.4(E), this Section applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.

10.7 PENALTY FOR VIOLATION:

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

SECTION 11 - DOGS AND COYOTES THAT ARE A DANGER TO ANIMALS

11.1 Bandera County adopts the provisions of 822.011 — 822.013 of the *Texas Health and Safety Code* regarding dogs and coyotes that are a danger to animals, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.

11.2 DOGS OR COYOTES THAT ATTACK DOMESTIC ANIMALS:

- 1) A dog or coyote that is attacking, is about to attack, or has recently attacked livestock, domestic animals, or fowls may be killed by:
 - A) any person witnessing the attack; or
 - B) the attacked animal's owner or a person acting on behalf of the owner or person who has knowledge of the attack.
- 2) A person who kills a dog or coyote as provided by this section is not liable for damages to the owner, keeper, or person in control of the dog or coyote.
- 3) A person who discovers on the person's property a dog or coyote known or suspected of having killed livestock, domestic animals, or fowls may detain or impound the dog or coyote and return it to its owner or deliver the dog or coyote to the Animal Control Office. The owner of the dog or coyote is liable for all costs incurred in the capture and care of the dog or coyote and all damage done by the dog or coyote.
- 4) The owner, keeper, or person in control of a dog or coyote that is known to have attacked livestock, domestic animals, or fowls shall control the dog or coyote in a manner approved by the Animal Control Office.
- 5) A person is not required to acquire a hunting license under Section 42.002, *Texas Parks and Wildlife Code*, to kill a dog or coyote under this section.

11.3 PENALTY FOR VIOLATION:

- 1) The owner of a dog or coyote who permits the animal to run at large in violation of this Order commits a Class "C" misdemeanor punishable by a fine not to exceed one hundred dollars (\$100.00).
- 2) Each time a dog or coyote runs at large in violation of this section constitutes a separate offense.

SECTION 12 - DUTIES OF ANIMAL CONTROL OFFICER

12.1 DESIGNATION OF ANIMAL CONTROL OFFICER: The Commissioners Court hereby appoints any certified law enforcement officer and any designated Animal Control Officer to enforce this order.

12.2 DUTIES OF ANIMAL CONTROL OFFICER: The Animal Control Officer and all law enforcement officers will be responsible for, but not limited to, the following duties as set forth in this order and to carry out provisions of the State laws pertaining to control and eradication of rabies:

- 1) **Animal bites:** receive and investigate reports of animal bites within Bandera County in a timely manner. Bites occurring within municipalities having an Animal Control Order will be referred to the proper municipal authority.
- 2) **Quarantine:** perform immediate and proper quarantine procedures for animals suspected of having rabies. Animals may be placed in approved animal shelters or approved veterinary hospitals.
- 3) **Impoundment:** humanely capture and transport an animal to the County's designated animal shelter or kennel for violations set forth in this Order.
- 4) **Destruction:** perform immediate, if warranted, proper and humane destruction of certain animals described in this Order.
- 5) **Citations:** issue citations for various violations and offenses set forth.
- 6) **Records:** provide necessary data and reports on a periodic basis as required by this Order and by the Commissioners Court.

12.3 OTHER DUTIES: Among other duties, the Animal Control Officer and all certified law enforcement officers shall enforce:

- 1) All state laws and rules adopted by the Texas Department of State Health Services establishing minimum standards for Rabies Control;
- 2) This order and all others promulgated by the County concerning Rabies and Animal Control; and
- 3) The rules adopted by the Texas Department of State Health Services concerning area rabies quarantines.

SECTION 13 - INTERFERENCE WITH THE ANIMAL CONTROL OFFICER

13.1 INTERFERENCE: It shall be unlawful for any person to intentionally or knowingly, by act or omission, physically interfere with, molest, hinder, or prevent the Animal Control Officer from the official discharge of the duties as herein prescribed.

13.2 PENALTY FOR VIOLATION: Any person who violates a provision of this Section may be guilty of a Class "B" misdemeanor punishable by a fine not to exceed two thousand dollars (\$2000.00) and imprisonment of no more than one hundred eighty (180) days.

SECTION 14 - CREATION AND DUTIES OF THE COMMUNITY LIAISON FOR ANIMAL CONTROL ISSUES

Bandera County shall hire a Community Liaison for Animal Control Issues to assist in the following:

- 1) Receiving and acting on complaints and concerns by the public regarding Animal Control Issues;
- 2) Assist in supervising the conditions of the Animal Control Facility;
- 3) Assist in supervising the treatment of animals in the Animal Control Facility;

- 4) Coordination of efforts between County and rescue organizations desiring unclaimed impounded animals;
- 5) Formulating rules and procedures to be approved by Commissioners Court for the implementation of this Order;
- 6) Formulating rules and procedures for the transfer of unclaimed animals to animal rescue organizations and private adoptions;
- 7) Working with victims of attacks by dogs on persons and/or livestock or domesticated animals;
- 8) Supervision of the licensing, registration and microchipping of animals as herein provided;
- 9) Reporting from time to time to Commissioners Court issues related to Animal Control;
- 10) Educating the public with regards to the provisions of this Order and the duties of a responsible pet owner.
- 11) Assisting Animal Control with other duties as deemed necessary.

The Community Liaison shall complete a basic animal control course as provided in Section 829 of the *Texas Health and Safety Code* within six (6) months from the date of employment.

SECTION 15 -LICENSING/MICROCHIPPING REQUIREMENT

15.1 LICENSING/MICROCHIPPING :

- 1) Commencing on May 1, 2009, all dogs/cats older than three (3) months which are kept, possessed, or controlled within Bandera County shall be licensed or microchipped at a rate and procedure set by Commissioners Court.
- 2) Every person owning, harboring or having in his possession after May 1, 2009 a dog or cat is hereby required to obtain a license or microchipping for identification at the time of its original rabies vaccination as herein required.
- 3) It shall be unlawful for any person to own, keep, harbor or have in his/her possession a dog or cat for which a current license has not been obtained as herein provided.
- 4) No person may use a license for any animal other than the animal for which it was issued.

15.2 LICENSING EXEMPTIONS: The following classifications need not obtain a license:

- 1) Dogs possessed by animal breeders operating under a business name possessing a sales tax permit.
- 2) Licensed veterinarians and impounded animals.
- 3) Dogs certified and trained to assist the physically handicapped.
- 4) Governmental police-use dogs.
- 5) Adoption agencies registered on a quarterly update with the Bandera County Sheriff's Office, and animal rescue organizations.

- 6) Any new animal adoption agency or animal rescue organization provided they are registered as such with the Bandera County Sheriff's Department.

15.3 MICROCHIPPING EXEMPTIONS: The following classifications need not obtain a microchip:

- 1) Dogs possessed by animal breeders operating under a business name possessing a sales tax permit.
- 2) Licensed veterinarians and impounded animals.
- 3) Governmental police-use dogs.

15.4 IMPOUNDED ANIMALS: Prior to the release of an impounded animal, the owner claiming such an animal shall pay a fee in addition to costs of boarding the animal and vaccination, if applicable, licensing and microchipping charges which will be due prior to release of the animal.

15.5 VALID PERIOD: The license or microchipping as required herein shall be valid for as long as the animal does not change ownership. If the animal changes ownership, a new license must be purchased and microchipping information transferred to the new owner.

15.6 PENALTY FOR VIOLATION: Any person who violates a provision of this Section may be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

SECTION 16 - CONFIDENTIALITY AND NONDISCLOSURE

16.1 CONFIDENTIALITY AND NONDISCLOSURE OF CERTAIN INFORMATION:

- 1) Information contained in a rabies vaccination certificate, in any record compiled from the information contained in one or **more** certificates, or in the county registry of dogs and cats that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure under Chapter 552, *Texas Government Code*. The information that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure under Chapter 552, *Texas Government Code*. The information contained in the registry, certificate or record may not include the social security number or driver's license number of the owner of the registered animal.
- 2) The information may be disclosed only to a governmental entity or to a person that under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety. A governmental entity or person that receives the information must maintain

the confidentiality of the information, may not disclose the information under Chapter 552, *Texas Government Code*, and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

SECTION 17 - ANIMAL ESTABLISHMENTS and ANIMAL DEALERS

- 17.1 PERMITS:** All Animal Establishments and Animal Dealers, as defined herein, shall, in addition to the other requirements of this Order, comply with the minimum standards of this section. Persons wishing to operate an Animal Establishment or to become an Animal Dealer within the County of Bandera must apply in writing to the Bandera County Sheriff's Department who will issue a permit if all of the state and federal requirements are met.
- 1) It shall be a violation for any business or person to sell, offer for sale, give away, offer to give away, or otherwise transfer ownership of any animal without first obtaining an Animal Establishment or Animal Dealer Permit, unless such activity is authorized by some other section of this chapter.
 - 2) It shall be a violation for any Animal Establishment or Animal Dealer to refuse, upon request by any certified law enforcement officer, or Animal Control Officer, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with the provisions of this chapter.
- 17.2 VIOLATIONS:** Failure to meet these standards, or violating this chapter in any other way, shall be grounds for the issuance of a citation subjecting the owner to penalties provided in this chapter, or revocation of the owner's Animal Establishment or Animal Dealer permit at the Bandera County Sheriff's Department's discretion.
- 17.3 PENALTY FOR VIOLATION:** Any person who violates a provision of this Section may be guilty of a Class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
- 17.4 ADVERTISEMENTS:** All advertisements for the sale of animals shall include publication of the Animal Establishment's or Animal Dealer's permit number.
- 17.5 BREEDING:** All Animal Dealers who are breeding a domestic animal for the sale or trade of offspring shall have the breeding female(s) certified as healthy by a licensed veterinarian prior to the sale of any of that animal's offspring.
- 17.6 EXCEPTIONS:** The following classifications need not apply for a permit or pay the annual permit fee:
- 1) Licensed Veterinarian Clinics;
 - 2) Research Facilities licensed by governmental agencies;

- 3) An employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- 4) A licensed trainer who trains service animals to assist the physically handicapped.

SECTION 18 - CORPORATIONS AND ASSOCIATIONS

18.1 Bandera County adopts this section in accordance with the provisions of Chapter 821 of the *Texas Health and Safety Code*, and Chapters 7 and 12 of the *Penal Laws of Texas*, as currently amended. Any offense will be prosecuted under laws in effect at time of the offense.

18.2 KNOWLEDGE OR ACTS: The knowledge and acts of an agent or employee of a corporation in regard to an animal transported, owned or used by or in the custody of the corporation are the knowledge and acts of the corporation.

18.3 CRIMINAL RESPONSIBILITY OF CORPORATION OR ASSOCIATION:

- 1) If conduct constituting an offense is performed by an agent acting on behalf of a corporation or association and within the scope of his office or employment, the corporation or association is criminally responsible for an offense defined:
 - A) in this code where corporations and associations are made subject thereto;
 - B) by law other than this code in which a legislative purpose to impose criminal responsibility on corporations or associations plainly appears; or
 - C) by law other than this code for which strict liability is imposed, unless a legislative purpose not to impose criminal responsibility plainly appears.
- 2) A corporation or association is criminally responsible for a felony offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:
 - A) a majority of the governing board acting in behalf of the corporation or association; or
 - B) a high managerial agent acting in behalf of the corporation or association and within the scope of his office or employment.

18.3 PENALTY:

- 1) If a corporation or association is adjudged guilty of an offense that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense.
- 2) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment, or that provides no specific

penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

- A) Twenty thousand dollars (\$20,000) if the offense is a felony of any category;
 - B) Ten thousand dollars (\$10,000) if the offense is a Class A or Class B misdemeanor;
 - C) Two thousand dollars (\$2,000) if the offense is a Class C misdemeanor; or
 - D) Fifty thousand dollars (\$50,000) if, as a result of an offense classified as a felony or Class A misdemeanor, an individual suffers serious bodily injury or death.
- 3) In lieu of the fines authorized by Subsections (A), (B) (1), (B) (2), and (B) (4), if a court finds that the corporation or association gained money or property or caused personal injury or death, property damage, or other loss through the commission of a felony or Class A or Class B misdemeanor, the court may sentence the corporation to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation or association to be lost or damaged, whichever is greater.
 - 4) In addition to any sentence that may be imposed by this section, a corporation or association that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.
 - 5) On conviction of a corporation or association, the court shall notify the attorney general of that fact.

SECTION 19 - GENERAL PROVISIONS

- 19.1 AREA OF JURISDICTION:** This Order shall apply to all unincorporated areas of Bandera County, Texas.
- 19.2 SAFETY CLAUSE:** Commissioners Court hereby finds, determines and declares that this order is necessary for the immediate preservation of the public peace, health and safety.
- 19.3 REPEALER:** All other orders and parts of orders in conflict with this Order are repealed.
- 19.4 EFFECTIVE DATE:** This Order shall become effective upon adoption by the Commissioners Court.
- 19.5 CONTRACTS:** The Commissioners Court or its designee may enter into any contracts or agreements with public or private entities that are necessary to effectuate this Order and these Animal Control Orders.

19.6 CONSTRUCTION AND INTERPRETATION

- 1) **Liberal Construction:** This Order shall be construed liberally to accomplish its purpose.
- 2) **Interpretation:** The Commissioners Court or any other court of competent jurisdiction shall resolve any question regarding interpretation of this Order.
- 3) **Conflict:** In the event of any conflict between this Order and a State law or rule adopted under a State law, the State law or rule shall prevail.
- 4) **Municipal Order to Supersede:** The promulgation and establishment of these regulations by Bandera County Commissioners Court shall not prevent a corporate municipality within the county from establishing any rules and regulations to control animals within its corporate limits. Any such Order established by said corporate municipalities shall supersede this County Order thereby preventing dual enforcement. In such cases, this Order will not be enforced within the corporate limits of any municipality.
- 5) **Number or Gender:** The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include any other number as required.
- 6) **Headings:** The headings at the beginning of the various provisions of this Order have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Order.
- 7) **Severability:** If any provision, section, sentence, clause or phrase of this Order or the application thereof to any person or circumstances is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Order and the application thereof to other persons and circumstances.

EFFECTIVE THIS ____ DAY OF _____, 2009.

**SCHEDULE I
BANDERA COUNTY ANIMAL CONTROL
FEE SCHEDULE
MAY 1, 2009**

Registration Fees:

- A) Annual Registration: \$5.00
- B) Lifetime for neutered/spayed/microchipped animals: \$15.00
- C) Dangerous Dog registration \$100.00

Microchipping Fee: \$15.00

Impoundment Fees:

	<i>Within a twelve (12) month period:</i>		
	First (1) Offense	Second (2) Offense	Third (3) Offense
Licensed/Vaccinated/Neutered/Microchipped	\$40.00	\$80.00	\$120.00
Not Neutered or Not Vaccinated	\$50.00	\$100.00	\$150.00

Boarding Fees: \$5.00 per day

Quarantine Fees: \$40.00 plus any applicable boarding fees

Euthanasia Fee: \$25.00

Disposal Fee: \$10.00

Owner Surrender Fees:

- Dropped off with Vaccinations: \$10.00
- Dropped off without Vaccinations: \$20.00
- Picked up with Vaccinations: \$20.00
- Picked up without Vaccinations: \$30.00

Adoption Fees: \$25.00

Trap Rental Deposit: \$40.00

Establishment License Fees: To be renewed annually

- Kennels with less than six (6) animals: \$20.00 Renewal \$10.00
- Kennels with seven (7) to forty-nine (49): \$30.00 Renewal \$15.00
- Kennels with fifty (50) or more animals: \$40.00 Renewal \$20.00
- Other Animal Establishments \$30.00 Renewal \$15.00