

SECTION 1 – AUTHORITY AND INTENT

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

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

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

SECTION 2 –DEFINITIONS

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

2.1 ANIMAL CONTROL OFFICER: Any, person designated by the Comal County Sheriff or his designee who is qualified to enforce the provisions of these regulations.

2.2 ANIMAL OWNER: Any person who owns, keeps, or has custody or control of an animal for a period of ten (10) days or more, including, as indicated by the context of this order, the person in control or having custody of, or feeding or harboring such animal.

2.3 BITE: Any puncturing, tearing, or scratching of the skin caused by an animal's teeth.

2.4 CAT: Felis Catus.

2.5 COMAL COUNTY: Comal County, Texas, a political subdivision of the State of Texas. The terms “Comal County,” “County,” and “Comal County, Texas” are synonymous.

2.6 COMMISSIONERS COURT: Commissioners Court of Comal County, Texas.

2.7 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, cruel confinement or which causes animal to fight with another animal.

2.8 DANGEROUS DOG: A dog is dangerous if it:

- a) makes an unprovoked attack on a person causing bodily injury and the attack occurs in a place other than an enclosure in which the dog is being kept; or

- b) commits unprovoked acts in a place other than an enclosure in which the dog is being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

2.9 DOG: Canis Familiaris.

2.10 DOG OR COYOTE as applied to Section 11: Includes a crossbreed between a dog and a coyote.

2.11 DOMESTIC ANIMAL: Means tame, domesticated, of or pertaining to the family or household.

2.12 FERAL ANIMAL: Having escaped from domestication and becomes wild.

2.13 HOLIDAY: Those days designated as official holidays by the Comal County Commissioners' Court.

2.14 LIVESTOCK: Includes exotic livestock as defined by Section 161.001, Agriculture Code.

2.15 LOCAL ANIMAL CONTROL AND HEALTH AUTHORITY: The Comal County Sheriffs Office and/or any division of the Office appointed or created by the Comal County Sheriff or his designee. The terms “Animal Control Office,” “Animal Control,” and “Animal Control Authority” are synonymous.

2.16 OWNER: Any person who owns, keeps, or has custody or control of an animal for a period of ten (10) days or more, including, as indicated by the context of this order, the person in control or having custody of, or feeding or harboring such animal.

2.17 RESTRAINT as applied to Section 6: An animal shall be deemed to be under restraint if it is:

- a) tied in such a way as to prevent it from leaving the owner's premises and from being within ten (10) feet of any public right of way;
 - b) totally enclosed by a fence constructed in such a way as to prevent it from leaving the owner's premises. The use of a wireless fence which transmits either a high frequency sound or a pulse stimulus shock and that is intended to train the dog to stay on the premises will not be considered a means of restraint; or
 - c) accompanied by a responsible person who is able to control it with a leash.
- Cats shall be exempt from the leash requirements while on the premises of the owner.

2.20 RESTRAINT as applied to Section 8: Means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

2.21 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:

- a) on a leash;
- b) 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;
- c) within an automobile or vehicle of its owner and properly restrained; or
- d) participating in a field trial, dog show, or obedience classes.

2.22 SECURE ENCLOSURE: A fenced area or structure that is:

- a) locked;
- b) capable of preventing the entry of the general public, including children;
- c) capable of preventing the escape or release of a dangerous dog;
- d) clearly marked as containing a dangerous dog; and
- e) conforms to the requirements for enclosures established by the Local Animal Control Authority.

2.23 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 and would require hospitalization without regard to whether the person actually sought medical treatment.

2.24 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.

2.25 UNLAWFUL RESTRAINT: Means to keep a dog outside and unattended under certain circumstances by use of a restraint that unreasonably limits the dog's movements.

2.26 VACCINATED: An animal which has been currently and properly injected with a rabies vaccine, licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed by the State of Texas.

2.27 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.

2.28 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 3 -RABIES CONTROL

3.1 Comal County adopts this section in accordance with the provisions of Chapter 826 of the Texas Health and Safety Code.

3.2 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 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.

3.3 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:

- a) The name, address and telephone number of the owner of the vaccinated dog or cat;
- b) The date of vaccination;
- c) The type of rabies vaccine used;
- d) The year and number of rabies tag; and
- e) The breed, age, color, and sex of the vaccinated dog or cat.

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.

3.4 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.

3.5 DUPLICATE TAGS: In the event of loss or destruction of the original tag provided in Section 3.4, 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 may be purchased from any practicing veterinarian in Comal County.

3.6 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.

3.7 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, which cannot be identified as having a current vaccination certificate.

3.8 ANIMALS EXPOSED TO RABIES:

- a) Any person who has reason to believe that any animal, whether or not currently vaccinated, has been exposed to rabies must immediately report the incident to the Animal Control Authority.

- b) Any such animal shall be impounded and placed in isolation in a facility approved by the Animal Control Authority, for such time as is necessary, depending upon all relevant circumstances, for a licensed veterinarian to determine that the animal has not contracted rabies.
- c) If the owner of the animal cannot provide an approved isolation facility or does not agree to pay for the facility, the animal shall be humanely destroyed at the owner's expense.
- d) If the animal's owner cannot be identified or located within seventy-two (72) hours from the time of impound, not counting weekends and holidays, the animal shall be humanely destroyed.
- e) In addition to any impound fees, any costs directly associated with the examination, treatment, and/or vaccination of the animal shall be due prior to release of the animal.

3.9 PENALTY FOR VIOLATION:

- a) 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).
- b) It is a defense to prosecution under Section 3.6 that the person charged produces proof of vaccination that was valid at the time the offense is alleged to have occurred.
- c) 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.

SECTION 4 -REPORTING BITES FROM ANIMALS SUSCEPTIBLE TO RABIES

4.1 Any person having knowledge of a bite to a human by any warm-blooded animal shall report the incident to the Animal Control Officer as soon as possible.

4.2 REPORTS OF RABIES: The report must include the following:

- a) name and address of the victim and of the animal's owner, or custodian, if known; and
- b) any other information that may help in locating the victim or the animal.

4.3 QUARANTINE: The owner, if any, of the biting animal shall place that animal in quarantine as prescribed in Section 5 under the supervision of the Animal Control Officer.

4.4 INVESTIGATION: The Animal Control Officer shall investigate each bite incident reported.

SECTION 5 –QUARANTINE PROCEDURES FOR ANIMALS

5.1 RABIES QUARANTINE:

- a) When Animal Control has probable cause to believe that the owner of an animal that has bitten a human has been identified, the owner, if any, will be required to produce the animal for ten (10) days confinement at the owner's expense.
- b) Refusal to produce said animal constitutes a violation of this Section.
- c) The ten (10) day observation period begins on the day the animal is produced for quarantine.

- d) The animal must be placed in an animal control facility or a veterinary hospital approved for that purpose by the Texas Department of State Health Services.
- e) However, the owner of the animal may request permission from the Animal Control Officer for home quarantine if the following criteria can be met:
 - 1) The animal was on the property of its owner at the time of the attack;
 - 2) A secure facility is available at the residence of the animal's owner which is approved by the Animal Control Officer;
 - 3) The animal's vaccination is current along with a current Comal County license, as registered with the Animal Control Office;
 - 4) The animal must be observed on at least the first and the last day of the quarantine period by either the Animal Control Officer or, at the owner's expense, a licensed veterinarian of the owner's choice; and
 - 5) If the animal becomes ill during the observation period, the Animal Control Officer must be notified immediately by the owner or a licensed veterinarian having possession of the animal.

5.2 HUMANE DESTRUCTION: If the biting animal cannot be maintained in a secure quarantine or if the owner chooses not to pay for the quarantine, the animal shall be humanely destroyed, and the brain shall be submitted to a Texas Department of State Health Services - certified laboratory for rabies diagnosis, at the owner's expense.

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

5.4 PENALTY FOR VIOLATION:

- a) Any person who violated 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).
- b) Each day an animal is not produced for quarantine shall constitute a separate offense.

SECTION 6 -PROHIBITION OF A NUISANCE

6.1 DOGS/CATS PROHIBITED FROM RUNNING AT LARGE:

- a) When the owner of a dog/cat running at large is determined and the owner can be located, the animal shall be returned to its owner and the owner shall be cited for violation of this order.
- b) If ownership is in question or if the animal is a stray, the animal shall be impounded for seventy-two (72) hours, not counting weekends and holidays.
- c) An owner may claim the animal within this time period after paying all incurred costs and impoundment fees.
- d) Upon failure of the owner to claim the animal during that period, the Animal Control Officer may order the animal destroyed without compensation to the owner.

6.2 RESTRAINT REQUIRED:

- a) The owner or custodian of each dog or cat shall restrain the animals and prevent them from running at large.
- b) Each unrestrained, unowned, or stray dog or cat is hereby declared a public nuisance.
- c) For purposes of the section, “restrained” shall mean that the dog or cat is:
 - 1) physically restrained by a leash, fence, pen, or other device,
 - 2) physically located on the property of the owner or custodian, or supervised by and under the direct control of the owner or custodian.

6.3 ELIMINATION OF STRAY ANIMALS:

- a) When practical, the Animal Control Officer shall impound any animal subject to these regulations which is found to be a stray.
- b) The animal may be impounded for seventy-two (72) hours, not counting weekends and holidays.
- c) 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.
- d) Upon failure of the owner to claim the animal during that period, the Animal Control Officer may order the animal destroyed without compensation to the owner.
- e) If any animal found at large in violation of this Chapter/Section cannot be safely taken up and impounded, such animal may, if deemed necessary, be destroyed by any authorized Animal Control Officer or State Peace Officer.
- f) Feral cats, dogs or other animals may be kept zero (0) to seventy-two (72) hours at the discretion of the Animal Control Officer.

6.5 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 7 – TREATMENT OF ANIMALS

7.1 PROHIBITION OF INHUMANE OR CRUEL TREATMENT:

- a) Any inhumane or cruel treatment of any type of animal shall be deemed a nuisance.
- b) 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.
- c) All persons residing in Comal County who own domestic dogs or cats must keep such animals at the residential premises permanently occupied and inhabited by the animals owners, or humane shelter as deemed applicable by Animal Control Authority.
- d) No person shall transport or carry, on any public place, any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unenclosed vehicle (including but not limited to convertibles, pick-up trucks and flatbed trucks) the animal shall be confined to a vented container or cage or by chain, rope; or other device cross-trieed to prevent the animal from falling or jumping from the motor vehicle or from strangling on a leash.
- e) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Leaving any animal in a standing or parked vehicle without adequate ventilation and water, shall constitute a per se danger to the animal’s health and safety. 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.

- f) Comal County adopts the Sections 42.10 of the Texas Penal Code relating to the prosecution and punishment of dog fighting.

7.2 WARRANT: A peace officer or animal control officer may seek a warrant from a justice court to seize an animal that the officer has reason to believe has been or is being cruelly treated, as defined in Section 2.7 herein.

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

7.4 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.

7.5 PUBLIC AUCTION: An animal found by the court to have been cruelly treated may be sold at public auction, given to an animal shelter, pound, or society for the protection of animals, or 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.

7.6 EUTHANIZATION: Euthanization of an animal in an animal shelter must be performed in accordance with Chapter 821, Subchapter C of the Texas Health and Safety Code.

7.7 PENALTY FOR VIOLATION: A person who mistreats an animal is subject to prosecution in county 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 8 - UNLAWFUL RESTRAINT OF DOGS

8.1 UNLAWFUL RESTRAINT: 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.

8.2 REGULATIONS: A person who owns or has custody or control of a dog may not leave a dog outside and unattended by use of a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system that: unreasonably limits the dog's movement: between the hours of 10 p.m. and 6 a.m.; or is located within five hundred (500) feet of a school; or occurs during extreme weather conditions as defined in Subchapter D, Chapter 821 of the Texas Health and Safety Code.

8.3 UNREASONABLE LIMIT OF MOVEMENT: A chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system unreasonably limits a dog's movement if it:

- 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:
 - 1) five (5) 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
 - 2) ten (10) feet;
- c) is in an unsafe condition; or
- d) causes injury to the dog.

8.4 VIOLATIONS AND PENALTY FOR VIOLATION:

- a) A person commits an offense if the person knowingly violates this subchapter.
- b) 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.
- c) 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 twenty-four (24) hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.
- d) 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.
- e) 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.
- f) 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. 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 9 - OWNERSHIP OF DANGEROUS DOGS

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

- a) Register the dangerous dog with the Comal County Animal Control Officer for the area in which the dog is kept.
- b) Pay an annual fee of one hundred (\$100.00) to the Animal Control Office.

- c) 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 Animal Control Officer.
- d) 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.
- e) Spay or neuter the dangerous dog.
- f) 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.

9.2 LIMITATION OF OWNERSHIP OF DANGEROUS DOGS:

- a) Only one (1) dangerous dog may be owned per household.
- b) No more than two (2) dangerous dogs may remain at any residence for more than seven (7) days.

9.3 DECLARATION OF A DANGEROUS DOG:

- a) Animal Control may find and declare a dog to be dangerous or potentially dangerous if Animal Control has probable cause to believe that a dog committed any of the acts described in the definition of Dangerous Dog (Section 2.8), or that the dog repeatedly bit or vigorously shook its victim and the victim, or a person intervening, had difficulty terminating the attack; or
- b) 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, Animal Control shall investigate the complaint and determine if a dog is dangerous.

9.4 NOTIFICATION OF DECLARATION OF DANGEROUS DOG:

- a) Within five (5) working days of declaring any dog dangerous or potentially dangerous, Animal Control will notify, by regular mail and by certified mail, return-receipt requested, the owner of the dogs designated as a dangerous. Animal Control shall also post a written notice at the entrance of the premises where the dog is harbored.
- b) Receipt of said notice shall be presumed upon proof of either of the following occurrences:
 - 1) Return of an executed return-receipt;
 - 2) Affidavit by Animal Control of deposit of a correctly addressed notice into United States mail; or
 - 3) Affidavit by Animal Control of posting of the notice at the premises where the dog was harbored.
- c) 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

Animal Control's decision becoming final. Further appeals may be pursued in the same manner as appeals for civil cases.

9.5 DETERMINATION HEARING:

- a) Upon 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.
- b) 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 must 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.
- c) 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:

- a) If the threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
- b) If the person was teasing, tormenting, abusing, or assaulting the dog;
- c) If the person was committing or attempting to commit a crime;
- d) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
- e) If the dog was injured and responding to pain.

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

- a) 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;
- b) 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
- c) 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:

- a) 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.
- b) The Animal Control Officer shall have no authority to confiscate any animal unless he has first delivered to the owner of the animal, 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.
- c) The Animal Control Officer shall be required to obtain a search and seizure warrant only if the dangerous dog is located within a residence.
- d) 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 and given twenty-four (24) hours to 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;
- e) 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;
- f) 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:

- a) 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).
- b) Each day that a person owns a dangerous dog in violation of this Section shall constitute a separate offense.
- c) An offense under this section is a Class B Misdemeanor 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:

- a) 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.
- b) 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.

- a) 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.
- b) An offense under this section is a Class C misdemeanor, unless the attack caused serious bodily injury or death (see Section 10).
- c) 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 Comal 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.

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:

- a) with criminal negligence, as defined by Section 6.03, 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, Penal Code, or death to the other person.
- b) 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:

- a) A justice court, county court, or municipal court shall order the Animal Control Office to seize a dog and shall issue a warrant authorizing the seizure:
 - 1) on the sworn complaint of any person, including the Criminal District Attorney of Comal 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
 - 2) 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.

- b) 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 order the disposition of the dog.

10.4 HEARING:

- a) 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.
- b) The court shall give written notice of the time and place of the hearing to:
 - 1) the owner of the dog or the person from whom the dog was seized; and
 - 2) the person who made the complaint.
- c) Any interested party, including the Criminal District Attorney, is entitled to present evidence at the hearing.
- d) 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.
- e) If either of these findings is not made, the court shall order the dog released to:
 - 1) its owner;
 - 2) the person from whom the dog was seized; or
 - 3) any other person authorized to take possession of the dog.
- f) 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:
 - 1) 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;
 - 2) 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.
 - 3) 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;
 - 4) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
 - 5) 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:

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

10.6 PROVOCATION OR LOCATION OF ATTACK IRRELEVANT: Except as provided by Subsection 10.4(f), 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:

- a) 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.
- b) 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.
- c) 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 Comal 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.

11.2 DOGS OR COYOTES THAT ATTACK DOMESTIC ANIMALS:

- a) A dog or coyote that is attacking, is about to attack, or has recently attacked livestock, domestic animals, or fowls may be killed by:
 - 1) any person witnessing the attack; or
 - 2) the attacked animal's owner or a person acting on behalf of the owner or person has knowledge of the attack.
- b) 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.
- c) 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.
- d) 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.
- e) A person is not required to acquire a hunting license under Section 42.002, Parks and Wildlife Code, to kill a dog or coyote under this section.

11.3 PENALTY FOR VIOLATION:

- a) The owner of a dog or coyote who permits the animal to run at large in violation of this Order commits an offense punishable by a fine not to exceed one hundred dollars (\$100.00).

- b) Each time a dog or coyote runs at large in violation of this section constitutes a separate offense.

SECTION 12 -CREATION, SUPERVISION AND DUTIES OF LOCAL HEALTH AUTHORITY

12.1 DESIGNATION OF ANIMAL CONTROL OFFICER: The Commissioners Court hereby appoints the Comal County Sheriffs Office and any Animal Control Officers appointed thereby as the Local Animal Control and Health Authority to assist with the following:

- a) Formulation of rules and procedures to be approved by Commissioners Court for the enforcement of this order;
- b) Supervising the implementation, administration and enforcement of this order.

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

- a) **Animal bites:** receive and investigate reports or animal bites within Comal County in a timely manner. Bites occurring within municipalities having animal control ordinances will be referred to the proper municipal authority.
- b) **Quarantine:** perform immediate and proper quarantine procedures for animals suspected of having rabies. Animals may be placed in approved animal shelters, approved veterinary hospitals or owners' approved premises.
- c) **Impoundment:** humanely capture and transport an animal to the County's designated animal shelter or kennel for violations set forth in this ordinance.
- d) **Destruction:** perform immediate, if warranted, proper and humane destruction of certain animals described in this ordinance.
- e) **Citations:** issue citations for various violations and offenses set forth.
- f) **Records:** provide necessary data and reports on a periodic basis as required by the Commissioners Court and to maintain confidential those records listed in Section 15.

12.3 OTHER DUTIES: Among other duties, the Animal Control Officers acting as the designated Local Animal Control and Health Authority shall enforce:

- a) All state laws and rules adopted by the Texas Department of State Health Services establishing minimum standards for Rabies Control;
- b) This order and all others promulgated by the County concerning Rabies and Animal Control; and
- c) 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 of not to exceed two thousand dollars (\$2000.00).

SECTION 14 -LICENSING REQUIREMENT AND IMPOUNDMENT FEES

14.1 LICENSING:

- a) All dogs/cats older than three (3) months which are kept, possessed, or controlled within Comal County shall be licensed by Animal Control at a rate of five dollars (\$5.00) per year unless they have been spayed or neutered.
- b) Spayed or neutered dogs/cats shall be licensed at a one-time fee of five dollars (\$5.00) for the life of the animal.
- c) No person may use a license for any animal other than the animal for which it was issued.
- d) **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, sheltered and impounded animals.
 - 3) Dogs certified and trained to assist the physically handicapped.
 - 4) Governmental police-use dogs.
 - 5) Adoption agencies or institution members, as provided on a quarterly update to the Animal Control office.

14.2 IMPOUNDMENT FEES: Prior to the release of an impounded animal, the owner claiming such an animal shall pay a fee in accordance with the fee schedule adopted by Commissioners Court. In addition, costs of boarding the animal and vaccination, if applicable, together with any other costs incurred, will be due prior to release of the animal. Any person who owns an animal subject to impoundment fees and who pays impoundment fees more than twice will be subject to an additional thirty-five dollars (\$35.00) for each subsequent offense.

14.3 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).

SECTION 15 – CONFIDENTIALITY AND NONDISCLOSURE

15.1 CONFIDENTIALITY AND NONDISCLOSURE OF CERTAIN INFORMATION:

- a) 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, 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.

- b) 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, 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 16 -GENERAL PROVISIONS

16.1 AREA OF JURISDICTION: This Order shall apply to all unincorporated areas of Comal County, Texas.

16.2 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.

16.3 REPEALER: All other orders and parts of orders in conflict with this Order are repealed.

16.4 EFFECTIVE DATE: This Order shall become effective upon adoption by the Commissioners Court.

16.5 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.

16.6 CONSTRUCTION AND INTERPRETATION

- a) **Liberal Construction:** This Order shall be construed liberally to accomplish its purpose.
- b) **Interpretation:** The Commissioners Court or any other court of competent jurisdiction shall resolve any question regarding interpretation of this Order.
- c) **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.
- d) **Municipal Ordinance to Supersede:** The promulgation and establishment of these regulations by Comal 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 ordinance 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.
- e) **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.
- f) **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.

- g) **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 January, 2008.

Superseding prior order which was adopted August 28, 1986, amended on September 21, 1989 and amended on June 27, 2002.

DANNY SCHEEL, COUNTY JUDGE

**JACK DAWSON,
COUNTY COMMISSIONER PCT. #1**

**JAY MILLIKIN,
COUNTY COMMISSIONER PCT. #2**

**GREGORY PARKER,
COUNTY COMMISSIONER PCT. #3**

**JAN KENNADY,
COUNTY COMMISSIONER PCT. #4**

ATTEST:_____
JOY STREATER, COUNTY CLERK

APPROVED AS TO FORM AND SUBSTANCE:

**BOB HOLDER
COUNTY SHERIFF**

**GEOFFREY BARR
CRIMINAL DISTRICT ATTORNEY**