

## HARRIS COUNTY ANIMAL REGULATIONS

### SECTION 1. AUTHORITY

A. These Regulations are promulgated pursuant to and in conformity with the following statutory authority:

(1) 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.

(2) 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.

(3) 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.

(4) The Transportation Code, specifically including the authority granted in section 285.001.

B. It is the purpose of the Commissioners Court of Harris County to exercise its authority to impose reasonable and uniform regulations for animal control in Harris County, Texas. These Regulations are adopted to protect the health, safety and general welfare of people in Harris County and also to protect the health, safety and general welfare of animals kept in Harris County by preventing the spread of rabies and other zoonotic diseases and by reducing the risk of injury to people from animals kept in Harris County, Texas.

C. These Regulations do not limit nor expand any other legal remedy available to any person, or to the County, under the laws of Texas and the United States for any injury or claim related to the keeping of an animal, nor do these Regulations serve to legalize any activity otherwise prohibited under the laws of Texas or the United States.

D. Harris County Public Health & Environmental Services (HCPHES), through its Veterinary Public Health Division ("HCPHES VPH"), is the entity designated as the local rabies control authority for Harris County pursuant to section 826.017 of the Health & Safety Code. HCPHES VPH shall act as the county's animal control authority for purposes of Chapter 822 of the Health & Safety Code. HCPHES VPH is authorized to enforce these Regulations and all laws applicable to the county's

local rabies control authority and animal control authority and is authorized to issue citations in the unincorporated area of Harris County, Texas to enforce these Regulations pursuant to Texas Health & Safety Code § 121.003 (c).

E. These Regulations supersede the Rabies Control Act and the rules promulgated thereunder only to the extent that dual enforcement would occur. The Rabies Control Act and the rules thereunder are effective as to any matter not addressed in these Regulations.

F. These Regulations apply to all portions of unincorporated Harris County. These Regulations apply to incorporated cities or towns that adopt these Regulations and execute cooperative agreements with Harris County for their enforcement.

## SECTION 2. CONSTRUCTION

A. The Code Construction Act of Texas applies for the purpose of construing these Regulations unless an alternative instruction, definition or application is contained in these Regulations.

B. The word "shall" is mandatory and not discretionary as used in these Regulations.

C. The word "Regulation" includes "rule" "ordinance" or "order" and all have the same meaning as applied to these Regulations.

D. These Regulations must be liberally construed to give affect to their purpose and intent.

## SECTION 3. DEFINITIONS

Unless the context demonstrates a different application, for the purposes of these Regulations the following words have the following meaning:

*Animal:* Non-human, warm-blooded and cold-blooded living creatures.

*Animal Control Officer:* The person or persons employed by HCPHES VPH to enforce these Regulations.

*Animal Shelter:* A facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals and complies with the standards and requirements of animal shelters prescribed in chapters 823 and 826 of the Texas Health & Safety Code.

*Attack:* Acts by an animal that cause a person bodily injury.

*Bite:* Any abrasion, scratch, puncture, tear or piercing of the skin that causes bleeding and is caused by or suspected of being caused by an animal.

*Cat:* Any live domestic cat (*felis catus*)

*Commissioners Court:* The Commissioners Court of Harris County, Texas;

*County:* Harris County, Texas;

*Currently Vaccinated-HC:* An animal that has either (1) been vaccinated for rabies within the last 12 months; or, (2) received 2 rabies vaccinations within 12 months of each other and the latter of these 2 rabies vaccination having been with a 3-year vaccination.

*Currently Vaccinated-ST:* An animal that is “currently vaccinated” as the term is defined in 25 T.A.C. §169.22, i.e., an animal that is vaccinated and satisfying the following criteria: (A) The animal must have been vaccinated against rabies according to the label recommendations of a United States Department of Agriculture (USDA) approved vaccine; (B) At least 30 days have elapsed since the initial vaccination; and (C) The time elapsed since the most recent vaccination has not exceeded the label recommendations of the vaccine.

*Custodian:* A person or agency which feeds, shelters, harbors, has possession or control, or has the responsibility to control an animal, including, but not limited to, the owner of the animal.

*Dangerous Dog:* A dog that

(1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

*Dog:* Any live domestic dog (*canis familiaris*) including hybrids.

*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.

*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.

*HCPHES VPH:* The Veterinary Public Health Division of the Harris County Public Health & Environmental Services department, its employees and agents.

*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.

*Impound:* The apprehending, catching, trapping, netting, tranquilizing, confining or, if necessary, the destruction of any animal by an animal control officer.

*Impounding facility:* Any premises approved by the Texas Department of State Health Services and designated by Harris 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 HCPHES VPH.

*License:* A document issued by HCPHES VPH, Annually, Triennially, or for the Lifetime of the dog or cat, in compliance with Section 5 of these Regulations.

*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 HCPHES VPH.

*Licensed:* In regard to a dog or cat means licensed by HCPHES VPH as required by Section 5 of these Regulations.

*Local Health Department:* The agents and officers (including the Local Health Authority and Local Rabies Authority) of the Harris County Public Health & Environmental Services as the duly appointed agency to enforce these Regulations.

*Non-transferable:* Cannot be transferred from one owner to another, from one animal to another, nor from one location to another.

*Owner:* Any person that harbors, shelters, keeps, controls, manages, possesses or has part interest in any dog or cat. It is a rebuttable presumption that the occupant of any premises on which a dog or cat remains for a period of seven (7) days or to which it customarily returns daily for a period of seven

(7) days is harboring, sheltering or keeping the aforementioned dog or cat, within this definition. If a minor owns a dog or cat or other animal subject to the provisions of these Regulations, his or her parent, or guardian is deemed the custodian of such dog or cat or other animal.

*Person:* Includes an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

*Restraint:* The control of a dog or cat under the following circumstances:

- (1) When it is controlled by a line or leash not more than six (6) feet in length, if the line or leash is held by a human being who is capable of controlling or governing the dog or cat in question; or
- (2) When it is within a fully enclosed vehicle; or
- (3) When it is on the premises of the custodian and the animal does not have access to a sidewalk or street.

*Secure Enclosure:* A fenced area or a structure that is locked; is capable of preventing the entry of the general public; is capable of preventing the escape or release of the animal confined therein; and is marked as containing a dangerous dog or a dangerous or restricted animal as required by these Regulations.

*State:* The State of Texas.

*Stray:* Any animal not under restraint as defined by these Regulations. The display of a vaccination tag or license tag does not change the fact that the dog or cat is a stray for the purposes of these Regulations.

*Unincorporated Harris County:* That portion of Harris County that is not within the incorporated boundaries of a municipality, town, or village.

*Unprovoked:* With respect to an attack by a dog means that the dog was not hit, kicked, or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched, or squeezed by a person.

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

*Vaccination Certificate:* A 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 and vaccine used.

#### SECTION 4. RESTRAINT AND IMPOUNDMENT

A. All dogs and cats must be kept under restraint while in the unincorporated areas of Harris County, Texas. The custodian 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.

B. The custodian of every dog or cat is responsible for any behavior of a dog or cat under the provisions of these Regulations.

C. HCPHES VPH and other persons designated by HCPHES VPH have the authority to impound the following:

- (1) All stray dogs and cats;
- (2) Any animal that has bitten or scratched a person; and
- (3) Any animal that has been exposed to rabies.

D. All animals seized and confined under this section should be impounded in an impoundment facility designated by HCPHES VPH.

E. Animal Control 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.

F. Nothing in these Regulations should be construed as authority for Animal Control Officers, employees or their agents to enter buildings unless:

- (1) the owner or other person with control over the premises consents to entry,
- (2) a valid warrant is obtained, or
- (3) exigent circumstances exist such that there is necessity to act immediately to protect or preserve life or to prevent serious injury to a person or an animal.

G. Any person may take and deliver to an Animal Control Officer or HCPHES VPH any stray which HCPHES VPH is, by the provisions of these Regulations, authorized to impound.

H. Each stray dog or cat is a public nuisance.

I. When dogs or cats are stray and their ownership is known to the Animal Control Officer, the officer has the discretion to:

- (1) impound the animal; or
- (2) cite the custodian of the animal to appear in a justice of the peace court to answer charges of violation of these Regulations; or
- (3) impound the animal and cite the custodian of the animal to appear in a justice of the peace court to answer charges of violation of these Regulations.

J. Upon receiving any dog or cat, HCPHES VPH should make a complete record of the breed, color and sex of the animal and the place and time it was caught. If the animal has a license tag, the name and address of the custodian and the number of the vaccination and/or license tag is to be included in the record.

K. The custodian of any licensed impounded animal may redeem such dog or cat during regular business hours of the HCPHES animal shelter, prior to the animal's adoption, sale or destruction, by:

- (1) Payment of a \$10.00 per day boarding fee for each day or portion of day the dog or cat has been impounded if it is the first impoundment of the animal and if the dog or cat is Currently Vaccinated-HC or Currently Vaccinated-ST, Licensed, wearing identification, and is neutered/spayed at the time of impoundment.
- (2) Payment of a \$30.00 impounding fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded if it is the first impoundment of the animal and if the dog or cat is neutered/spayed at the time of impoundment but does not meet the other requirements set forth in subsection (1), above.
- (3) Payment of a \$40.00 impounding fee and \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded if it is the first impoundment of the animal and if the dog or cat does not meet any of the other requirements set forth in subsection (1), above.
- (4) Payment of an \$80.00 impounding fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded if it is the second impoundment of the animal.
- (5) Payment of a \$120.00 impounding fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded if it is the third or more impoundment of the animal.

(6) Payment of an additional \$35.00 to the impounding fee for a biting dog or cat and payment of an additional \$2.00 per day/partial day boarding fee. (\$12.00 per day or partial day)

(7) Payment of the applicable impounding fee and \$12.00 per day/partial day boarding fee for an animal pending a hearing or after the animal has been determined to be dangerous.

(8) Notwithstanding the previous subsections, at the time of redemption if the owner of the animal provides proof that the dog or cat has been vaccinated within twelve months immediately preceding its impoundment, the animal does not have to be revaccinated.

L. The custodian of any unlicensed impounded animal may redeem such animal during regular business hours of the HCPHES animal shelter prior to its adoption or destruction by having the animal duly vaccinated and licensed and:

(1) Payment of a \$40.00 impounding fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded, plus payment of the cost of the license and vaccination for the animal if it is the first impoundment of the animal.

(2) Payment of a \$30.00 impounding fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded plus payment of the cost of the license and vaccination if it is the first impoundment of the animal and if the dog or cat is neutered/spayed at the time of impoundment.

(3) Payment of a \$80.00 impoundment fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded, plus payment of the cost of the license and vaccination for the animal if it is the second impoundment of the animal.

(4) Payment of a \$120.00 impoundment fee and a \$10.00 per day board fee for each day or portion of day the dog or cat has been impounded, plus payment of the cost of the license and vaccination for the animal if it is the third or more impoundment of the animal.

(5) Payment of an additional \$35.00 to the impounding fee for a biting dog or cat and payment of an additional \$2.00 per day/partial day boarding fee. (\$12.00 per day or partial day).

(6) Payment of the applicable impounding fee and \$12.00 per day/partial day boarding fee for an animal pending a hearing or after the animal has been determined to be dangerous.

(7) Notwithstanding the previous subsections, at the time of redemption if the owner of the animal provides proof that the dog or cat is Currently Vaccinated-HC or Currently Vaccinated-ST, the animal does not have to be revaccinated.

M. HCPHES VPH shall keep all healthy unclaimed dogs and cats for a period of three (3) working days. At the expiration of that time if a dog or cat has not been claimed or redeemed by the owner, it may be put up for adoption, sold, transferred to other animal welfare agencies for adoption or humanely euthanized. All actions taken under this section shall be conducted as required under the Animal Welfare Act (7 U.S.C. Section 2131 et. seq.).

N. Any animal impounded under the terms of these Regulations and not redeemed within three (3) working days may be adopted or sold for the best price.

O. All animals impounded under these Regulations that are not redeemed, adopted, or sold as provided herein should be humanely killed.

P. All moneys collected by HCPHES VPH under the terms of these Regulations must be placed in a special fund under the control of the Commissioners Court and be used only for defraying the expenses of administration and enforcement of these Regulations.

Q. No person may interfere with, hinder or molest any Animal Control Officer, or other party designated by HCPHES VPH, in the performance of any duty delegated in these Regulations, nor shall any person seek to release any animal impounded under the provisions of these Regulations except as herein provided.

#### SECTION 5. RABIES VACCINATION AND LICENSE

A. The custodian of every dog or cat (excluding animal shelters) must ensure that the dog or cat that is over three (3) months of age has a license issued by HCPHES VPH. There shall be a rebuttable presumption that the dog or cat is not Currently Vaccinated-HC, Currently Vaccinated-ST, or licensed if a valid license tag is not displayed on the collar worn by the dog or cat.

B. A dog or cat must be Currently Vaccinated-HC or Currently Vaccinated-ST in order to be issued a license by HCPHES VPH.

C. Upon presenting proof that an animal is Currently Vaccinated-HC or Currently Vaccinated-ST and payment of a \$25.00 fee to HCPHES VPH, an Annual License will be issued. The Annual License expires when the rabies vaccination expires or within 12 months of the date it is issued, whichever occurs first in time.

D. Upon presenting proof that an animal is Currently Vaccinated-HC or Currently Vaccinated-ST with a 3-year rabies vaccination and payment of a \$75 fee to HCPHES VPH, a Triennial License will be issued. The Triennial License expires when the 3-year rabies vaccination expires or within 36 months of the date it is issued, whichever occurs first in time.

E. Upon presenting proof that an animal is Currently Vaccinated-HC or Currently Vaccinated-ST, proof that the animal is spayed or neutered and the payment of a one-time \$15 fee to HCPHES VPH, a Lifetime License will be issued for the animal. If the owner of the animal is 65 years of age or older then proof of spaying or neutering is not required to obtain a Lifetime License. A Lifetime License does not relieve the owner of the responsibility of insuring that the animal is Currently Vaccinated-HC or Currently Vaccinated-ST for rabies, and failure to produce a certificate that proves the animal is Currently Vaccinated-HC or Currently Vaccinated-ST voids the Lifetime License.

F. Upon satisfaction of the requirements for an Annual License, a Triennial License, or a Lifetime License, HCPHES VPH will issue a numbered license tag for the animal. In the event the license tag is lost, a duplicate may be obtained from HCPHES VPH upon presentation of proof that the animal is Currently Vaccinated-HC or Currently Vaccinated-ST and the payment of five dollars (\$5.00).

G. HCPHES VPH must keep a record of each license tag issued under the terms of these Regulations. The record must show: the name and address of the owner being issued the tag; the number of the license tag issued; the date issued; the amount paid; and the sex and description of the dog or cat being licensed. These records are to be kept for at least the period of time required by state law.

H. The provisions herein requiring licensure of dogs and cats do not apply to the following:

- (1) Any dog or cat under three (3) months of age.
- (2) Dogs or cats owned by nonresidents whose stay in this county will not exceed thirty (30) days.
- (3) Any dog or cat brought into the county and entered in a show or exhibition, provided, this exception shall not be operative longer than the period of time commencing not more than seven (7) days before the time of any show or exhibition and ending not more than seven (7) days after the animal's participation in such show or exhibition; and

- (4) Dogs and cats licensed in a municipality located in Harris County.

#### SECTION 6. RABIES CONTROL AND QUARANTINE

- A. Any person having knowledge of an animal bite to a human must report the incident to HCPHES VPH as soon as possible. HCPHES VPH shall obtain custody of the animal in accordance with subsection C of Section 4 of these Regulations and investigate each bite incident.
- B. When an animal that has bitten a human has been identified, the custodian must place that animal in quarantine or submit its brain for testing. The costs of quarantine are borne by the custodian.
- C. A custodian must submit for quarantine an animal: that is reported to be rabid or to have exposed an individual to rabies; or that the custodian knows or suspects is rabid or to have exposed an individual to rabies.
- D. A quarantine is conducted as required by the Rabies Control Act, set out in Chapter 826 of the Texas Health and Safety Code, and the Regulations and Regulations adopted pursuant to that statute, as amended.

#### SECTION 7. VIOLATIONS AND ENFORCEMENT OF RABIES CONTROL

Each of the following is a Class C misdemeanor:

- (1) 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 vaccinated against rabies;
- (2) A person commits an offense if he/she knowingly fails or refuses to license any dog or cat for which that person is the custodian and is required to be licensed;
- (3) 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, in the unincorporated area of Harris County, Texas;
- (4) 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.

## SECTION 8. REGULATIONS FOR DANGEROUS DOGS

A. Not later than the 30th day after a person who owns or has custody or control of a dog learns that he/she owns or has custody or control of a dangerous dog, the person must:

(1) Register the dangerous dog with HCPHES VPH. The dog will be registered by HCPHES VPH **only** after the following conditions have been met:

(a) Payment of an annual registration fee of \$50.00 to HCPHES VPH;

(b) The person who owns or has custody or control of the dog provides proof that the dangerous dog has been spayed or neutered. The only exceptions to this spaying or neutering requirement shall be if HCPHES VPH or a licensed veterinarian confirms in writing that either the dog is past the age for breeding, or its condition otherwise makes it inadvisable to spay or neuter the dog.

(c) The person who owns or has custody or control of the dog obtained liability insurance coverage or showing financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person **and** has provided proof of the liability insurance/financial responsibility to HCPHES VPH.

(d) The dangerous dog has been implanted with an identifying computer microchip compatible with the scanning equipment utilized by HCPHES VPH. The information contained in the microchip must be reported to HCPHES VPH.

(e) The person who owns or has custody or control of the dog has obtained prior approval from HCPHES VPH that the enclosure is constructed to satisfy the secure enclosure requirement set forth in subsection C, below.

(2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure, as described in subsection C., below.

(3) Notify HCPHES VPH of any attack the dangerous dog makes on a person within forty-eight (48) hours of the attack.

B. Upon registration, the dangerous dog, shall:

- (1) be issued a tag and the tag must be displayed on the animal at all times;
- (2) wear a collar at all times which is bright orange and contains the words "Dangerous Dog" in big black lettering. This collar may be purchased from HCPHES VPH when the dog is initially registered or a collar substantially similar to the HCPHES VPH collar is acceptable as an alternative or replacement;
- (3) be transported only within a fully enclosed vehicle and a "Dangerous Dog" sign must be posted in a window on each side of the vehicle.

C. To qualify as a "secure enclosure" under subsection A (2), above, the following requirements must be met:

- (1) The dangerous dog must be kept in a secure enclosure which prevents the dog from escaping as well as protects the general public from physical access to and/or contact with the dog.
- (2) The secure enclosure shall:
  - (a) have a cement floor, unless another material and/or the construction used is as good as a cement floor in preventing the dog from digging or escaping from the enclosure;
  - (b) have a cover or fixed top if the dog is capable of climbing or jumping;
  - (c) have walls which consist of not less than nine (9) gauge chain link or equivalent.
- (3) Whether a structure qualifies as a "secure enclosure" is subject to HCPHES VPH's approval, and, in this connection:
  - (a) the person who owns or has custody or control of an animal must give HCPHES VPH reasonable access to inspect the enclosure;
  - (b) HCPHES VPH may require the person who owns or has custody or control to make structural changes within a certain reasonable time to make the enclosure secure; and
  - (c) a structure shall be deemed not to qualify as a secure enclosure if the person who owns or has custody or control does not give

HCPHES VPH reasonable access to inspect the enclosure or if structural changes required by HCPHES VPH are not performed.

(4) The secure enclosure must be clearly marked as containing a "Dangerous Dog" on each side of the enclosure. Signs may be obtained from HCPHES VPH when the dog is initially registered. Signs substantially similar to those available through HCPHES VPH will fulfill the requirements of this section.

(5) When the dangerous dog is outside of the secure enclosure, the dog must be controlled by a line or leash not more than six (6) feet in length; the line or leash must be held by a person capable of controlling the dog; and the dog must be humanely muzzled.

D. If the dangerous dog is transferred to a new location, not later than the 7<sup>th</sup> day after the date of the transfer the person who owns or has custody or control shall notify HCPHES VPH of the change of location and provide the address of the new location of the dog.

E. If ownership, custodianship, or control of the dog changes, the name and address of the new person who owns or has custody or control must be provided to HCPHES VPH. In connection with a change in the ownership, custodianship, or control of a dangerous dog:

(1) If the new person who owns or has custody or control resides in Harris County, HCPHES VPH will notify the new person who owns or has custody or control that the dog is a dangerous dog; that the registration of a dangerous dog is not transferable; and that the new person who owns or has custody or control is subject to the requirements of these Regulations. When any person in Harris County becomes the owner, custodian, or controller of a dog that has been previously declared dangerous under these Regulations, within fourteen (14) days of receipt of the dog or notice that the dog has been previously declared dangerous (whichever occurs first in time), the new person who owns or has custody or control shall register the dog as required by these Regulations.

(2) If the new person who owns or has custody or control is not located in Harris County, HCPHES VPH will notify the new person who owns or has custody or control and the appropriate animal control authority in the area where the dog has been transferred that the dog has been previously determined to be a dangerous dog in Harris County.

F. Compliance with these Regulations for dangerous dogs is in addition to and concurrent with compliance with rabies control rules and quarantine requirements as set forth in these Regulations and under state law.

SECTION 9. VIOLATIONS AND ENFORCEMENT OF  
DANGEROUS DOG RESTRICTIONS

A. A person who owns or has custody or control of a dangerous dog commits an offense if the person fails to comply with any provision of Section 8 of these Regulations. An offense defined in this section is a Class C misdemeanor unless it is shown at trial that the defendant has previously been convicted of a violation identified in this section, in which case an offense is a Class B misdemeanor.

B. Each violation of these Regulations constitutes an act in contempt of Commissioners Court. Commissioners Court has the power to enforce its orders by civil contempt and may punish contempt by fine or imprisonment pursuant to Section 81.024 of the Local Government Code. Each and every day a person fails to comply with these Regulations is a separate violation.

C. The restrictions and requirements of Sections 8 of these Regulations may be enforced concurrently with Chapter 822, Subchapter D, of the Texas Health and Safety Code, as amended. These Regulations do not restrict or limit the power of the County or State to choose to prosecute any person for criminal or civil penalties pursuant to that subchapter in addition to or as an alternative to prosecution under these Regulations.

D. If any person violates any provision of Section 8 so that there is a threat to public health and safety, HCPHES VPH may notify the County Attorney and request authorization from Commissioners Court to file suit to enjoin the violation.

SECTION 10. DEFENSES

A. It is a defense to prosecution under these Regulations that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the dog in connection with that position.

B. It is a defense to prosecution under these Regulations that the person is 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.

C. It is a defense to prosecution under these Regulations that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413)(29bb), Vernon's Texas Civil Statutes).

SECTION 11. REGULATION OF SALE AND SOLICITATION OF LIVE ANIMALS

A. The sale of live animals is banned if it occurs on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.

B. The erection, maintenance, or placement of a structure by a vendor of live animals is banned from a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.

## SECTION 12. VIOLATIONS AND ENFORCEMENT OF SALE AND SOLICITATION OF LIVE ANIMALS.

- (1) A person commits an offense if the person knowingly offers for sale live animals while on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.
- (2) A person commits an offense if the person knowingly erects, maintains or places a structure for the purposes of selling live animals on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot.
- (3) A person commits an offense if the person obstructs or threatens to obstruct the removal of a structure that is in violation of this regulation.
- (4) Each offense under this section is a Class C misdemeanor.
- (5) Each day a violation continues is a separate offense.

## SECTION 13. UNLAWFUL RESTRAINT OF DOGS

A. 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.

B. 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 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.

C. 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:

- (1) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
- (2) 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;
- (3) is in an unsafe condition; or
- (4) causes injury to the dog.

#### SECTION 14. VIOLATIONS AND ENFORCEMENT OF UNLAWFUL RESTRAINT

- (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 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.

Sec. 821.080. DISPOSITION OF PENALTY. Notwithstanding any other law, the clerk of a court that collects a penalty under Subchapter D, Chapter 821 of the Texas Health and Safety Code shall remit the penalty collected for deposit in the general fund of the county.

#### SECTION 15. DISMISSAL OF CERTAIN MISDEMEANOR CHARGES

A. When a person is charged with a misdemeanor offense under Sections 4, 5, 6 or 7 of these Regulations, the court, in its sole discretion, may defer the proceedings and allow the person 180 days to present evidence that subsequent to the alleged act, she/he has successfully complied with any reasonable condition imposed on him/her by the court pursuant to Texas Code of Criminal Procedure, article 45.54. Such condition(s) may include the condition that she/he successfully complete the HCPHES VPH First Offender Program, which requires:

- (1) the payment of a \$10.00 registration fee; and

(2) attending a 3-hour class presented by HCPHES VPH.

B. At the end of the 180-day deferral period, if the person charged with the misdemeanor presents evidence that s/he has complied with the condition(s) imposed by the court, the court may dismiss the complaint.

SECTION 16.EFFECTIVE DATE

A. These Regulations shall become effective on October 1, 2007. All previously adopted rules and regulations are superseded and repealed.