

# **MONTGOMERY COUNTY RABIES CONTROL AND ANIMAL RESTRAINT ORDINANCE**

(rev. January 2017)

## **SECTION I. AUTHORITY AND PURPOSE**

These rules are promulgated pursuant to and in conformity with statutory authority granted to the Montgomery County Commissioners Court pursuant to Chapters 822 and 826 of the Texas Health & Safety Code. It is the purpose of the Commissioners Court of Montgomery County to impose reasonable and uniform rules for rabies control and restraint of dogs and cats in Montgomery County.

## **SECTION II. DEFINITIONS**

For purposes of these rules, certain terms and words are hereby defined. Words used in the present tense include the future; a singular number includes the plural and the singular; reference to the male gender includes the female gender and reference to any person or animal without specifying gender includes both male and female; the word "shall" is mandatory. The words "animal," "cat," "dog," "quarantine," "rabies," "licensed veterinarian," "vaccinated" and "currently vaccinated" shall have the same meaning as provided by or used in the Rabies Control Act of 1981, promulgated at Chapter 826 of the Texas Health and Safety Code, and the Rules of the Texas Department of Health, promulgated pursuant to the Rabies Control Act of 1981.

- A. "Animal Control Officer" means the person or persons employed by Montgomery County in its Animal Control Department to enforce these rules.
- B. "Bite" means any abrasion, scratch, puncture, tear, or piercing of the skin actually or suspected of being caused by an animal.
- C. "Official Rabies Certificate" means a certificate bearing the signature of a licensed veterinarian, rabies tag number, the name, color, sex, species, age, and breed of a dog or cat, the name and address of the owner, the date of the vaccination, the date, serial number, producer, and type of vaccine administered, and such other information as required by the minimum standards for vaccination certifications approved by the Texas Board of Health, in accordance with the Texas Health & Safety Code §826.021(b) and Texas Administrative Code Rule §169.29 Vaccination Requirements.
- D. "Custodian" means a person who feeds, shelters, harbors, or has possession or control, or has the responsibility to control, a dog or cat.
- E. "Dangerous dog" means any dog that has been deemed dangerous under the provisions of Chapter 822, Subchapter D of the Texas Health & Safety Code.
- F. "Exposed to Rabies" means bitten by, fought with, or consorted with an animal known or

suspected to have rabies or showing objective symptoms of rabies.

G. "Feral Cat" means a descendant of a domesticated cat that has returned to the wild. It is distinguished from a stray cat, which is a pet cat that has been lost or abandoned, while feral cats are born in the wild. The offspring of a stray cat can be considered feral if born in the wild.

H. "Impound" means apprehend, catch, trap, net, tranquilize, or confine.

I. "Impounding facility" means any premises designated by Montgomery County for the purpose of impounding, destroying, or caring for animals found in violation of these rules.

J. "Local Rabies Control Authority" means the person duly appointed by the Montgomery County Commissioners Court to supervise the enforcement of these rules.

K. "Owner" means any individual, corporation, association, or any other legal entity that harbors, shelters, keeps, controls, manages, possesses, or has part interest in any animal subject to these rules. The occupant of any premises on which a dog or cat, or other animal, remains for a period of seven (7) days, or to which it customarily returns for a period of seven (7) days, is presumed to be harboring, sheltering, or keeping the aforementioned animal, within this definition.

L. If a minor owns a dog or cat or other animal subject to the provisions of these rules, any adult occupant of the household of which such minor is a member shall be deemed to be the owner or custodian of such dog or cat or other animal for the purpose of these rules and shall be held responsible as the owner or custodian. If not a member of a household, such minor owner shall himself be directly subject to the provisions of these rules.

M. "Registered" means registered with the Montgomery County Animal Control Department.

N. "Restraint" means the control of an animal under any of the following circumstances:

- a. When it is controlled by a lead, line, or leash that is secured to a secure object or held by a person who is capable of controlling and governing the animal in question (See Subsection M. of this Section II. concerning minors.);
- b. When it is within a fully enclosed vehicle;
- c. When it is on the premises of the owner and/or custodian;
- d. When it is restrained securely within an enclosure or fence; or
- e. When it is under the physical control of the owner or custodian.

O. "Stray" means any dog or cat running free from the owner's or custodian's premises or control without restraint.

Q. "Trap-Neuter-Return (TNR)" means the process of humanely trapping, sterilizing, vaccinating for rabies, eartipping, and returning Community Cats to their original location.

R. "Temporary Ownership" means the provisional assumption of ownership for the purpose of preventative immunizations and treatment, including emergent humane euthanasia as directed by a licensed veterinarian in the event of suffering, during an animal's stray hold period at an impound facility.

S. "Community Cat" means a cat that is abandoned, stray, lost, free roaming or feral but excludes (a) indoor cats surrendered by the owner, (b) indoor or outdoor cats which are not healthy enough to undergo spay/neuter surgery, and (c) kittens less than eight (8) weeks of age.

T. "Community Cat Caregiver" means an approved person or organization registered with the Montgomery County Animal Shelter and which person or organization provides care (including, food, shelter or medical care) to a Community Cat under the Community Cat Program. A Community Cat Caregiver will not be considered the owner, custodian, harbinger, controller, or keeper of a Community Cat under this Ordinance. A non-refundable registration fee of \$\_\_\_ shall be paid with the application.

U. "Eartip" or "Eartipping" means the removal of the ¼ inch tip of a Community Cat's ear, performed while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian, designed to identify the Community Cat as being sterilized and lawfully vaccinated for rabies.

### **SECTION III. LOCAL RABIES CONTROL AUTHORITY**

A. The Montgomery County Animal Control Supervisor is hereby designated as the Local Rabies Control Authority for purposes of these rules.

B. The Local Rabies Control Authority or his/her designee shall have the duty to enforce:

1. The Rabies Control Act of 1981, TEX. HEALTH & SAFETY CODE § 826.001, *et seq.* and amendments thereto;
2. The rules of the Texas Board of Health which comprise the minimum standards for rabies control in the State of Texas;
3. The Montgomery County Rules to control rabies adopted herein; and
4. The rules adopted by the Texas Board of Health concerning quarantine provisions of the Rabies Control Act of 1981.

C. Failure by an owner to provide a certificate of vaccination for an animal, as required herein, shall subject the owner to citation and punishment in accordance with Texas Health & Safety Code § 826.022 and § 826.046.

### **SECTION IV. RESTRAINT AND IMPOUNDMENT**

A. All dogs and cats, with the exception of Community Cats, shall be kept under restraint, as defined in Section II., Subsection N. above.

- B. The owner or custodian of every dog or cat shall be held responsible for the behavior of his animal and, thereby, responsible for any violation of these rules or applicable provisions of Chapters 822 and 826 of the Texas Health & Safety Code.
- C. The Local Rabies Control Authority or his designee shall be authorized by these rules to catch, confine, and impound the following:
1. All stray dogs whether or not vaccination tags are displayed;
  2. Any animal, whether domesticated, wild, or stray, which has bitten or scratched a person, has bitten or scratched another animal, or is suspected of having rabies or having been exposed to rabies; and
  3. Any dangerous dog that is improperly secured or unregistered, as required by Subsection P. of this Section IV.
- D. All animals picked up under these rules shall be impounded in the impounding facility.
- E. The Local Rabies Control Authority or his designee shall be authorized to enter upon any public highway, street, alley, court, square, park, or sidewalk or any other public grounds in order to seize any stray dog or cat. The Local Rabies Control Authority or his designee shall be authorized to enter upon any private property to seize a stray dog or cat:
1. With permission of the occupant or owner thereof;
  2. With a valid warrant authorizing such entry;
  3. In an emergency under the auspices of a commissioned law enforcement officer; or
  4. Under exigent circumstances in which a pursuing Animal Control Officer has actually observed a dog or cat to be free-roaming and the officer believes it is necessary to immediately act to seize the animal in order to protect or prevent injury to a person, property, or another animal.
- F. Any person may collect and deliver to an Animal Control Officer any stray dog or cat for which the Animal Control Officer has authority to seize.
- G. Any dog or cat found straying upon private property may be collected by the owner of said private property and delivered to an Animal Control Officer.
- H. When a stray dog or cat is seized by an Animal Control Officer or a commissioned peace officer and the officer can identify the owner or custodian, the officer has discretion to:
1. Impound the animal;
  2. Return the animal to the owner or custodian and cite the custodian or owner of the animal to appear in a justice of the peace court to answer charges of violation of these rules; or
  3. Impound the animal and cite the custodian or owner of the animal to appear in a

justice of the peace court to answer charges of violation of these rules.

4. Community Cats bearing an eartip shall not be trapped or seized by an Animal Control Officer unless veterinary care is required. If an eartipped cat is trapped or seized by an Animal Control Officer it shall be immediately released where it was trapped unless veterinary care is required.
- I. It shall be the duty of the Animal Control Authority or his designee to deposit all living animals to be impounded with the impounding facility.
- J. Every stray animal impounded shall become the property of Montgomery County or its designee, pending the expiration of the stray hold period, if applicable, during which at any time an "Owner" may reclaim ownership. Each healthy, appropriate aged impounded animal, during above defined "Temporary Ownership" shall receive core immunizations as defined by the American Animal Hospital guidelines and in conjunction with a licensed veterinarian familiar with the common infectious diseases affecting dogs and cats of Montgomery County, and the most common intestinal parasite treatment upon intake, unless sick or injured, at which time a licensed veterinarian can make recommendations regarding additional treatment, immunization and/or humane euthanasia, if warranted
- K. All dogs or cats, with the exception of Community Cats and animals under four months of age, delivered to an impounding facility under these rules shall remain impounded therein, unless claimed and redeemed, for a period of four (4) days beginning the day the animal is collected by or delivered to the Animal Control Authority or Animal Shelter. At the expiration of that time, impounded animals that are not claimed and redeemed by the owner or custodian may be put up for adoption, sold, transferred to a rescue group, transferred to a foster or foster group, or humanely destroyed. Community Cats should be directed to Trap-Neuter-Return. All actions involving the care and disposition of animals impounded at the impounding facility shall be consistent with the requirements of the Animal Welfare Act (7 U.S.C. §§ 2131, *et seq.*).
- L. Notwithstanding any other provision in this ordinance, any animal under four months of age that is surrendered to an impounding facility or impounded by an Animal Control Officer shall become the sole property of Montgomery County upon delivery of the animal to the impounding facility and may be outcomed as the impounding facility deems appropriate.
- M. The owner or custodian of any impounded dog or cat may claim and redeem their animal prior to its sale, adoption, or other disposition during regular business hours of the impounding facility. No animal may be claimed or redeemed without proof of current vaccination or payment of applicable vaccination fees. Fees for redemption of animals shall not exceed those set out in the fee schedule attached to these rules and incorporated herein for all purposes; provided, however, these fees may be changed from time-to-time with approval of the Commissioners Court. Community Cat Caretakers are empowered to redeem impounded Community Cats without payment of redemption fees.

- N. No person shall interfere with, hinder, or molest any Animal Control Officer, or other party designated by the Local Rabies Control Authority or his designee, in the performance of any duty delegated hereunder, or seek to release any animal taken and held in custody under the provisions of these rules, except as provided herein.
- O. Failure to comply with these rules on animal restraint shall subject the owner or custodian of the unrestrained animal to citation and punishment in accordance with Texas Health & Safety Code § 826.034.
- P. Requirements for dangerous dog; violation:
1. Every dog that has been deemed to be a dangerous dog shall be confined in an enclosed structure of not less than six (6') feet in height. Such structure, if made of wire, shall be no less than nine (9) gauge. The enclosure shall be secured at all times by a locking device capable of preventing the animal from escaping the enclosure without control of the owner or his designee. The locking device shall also be sufficient to prevent unauthorized persons from opening the enclosure on their own and require a key or combination or breach.
  2. Not later than the 30<sup>th</sup> calendar day after the date a person learns that the person is the owner of a dangerous dog, the owner shall:
    - i. Register the dangerous dog in accordance with § 822.042 of the Texas Health & Safety Code.
    - ii. Sterilize the dog, if not already sterilized;
    - iii. Failure to register or secure a dangerous dog as required herein will subject the owner of the animal to criminal penalties prescribed by Texas Health & Safety Code § 826.045;
    - iv. Have a microchip implanted in the dog that is registered to the dog's owner; and
    - v. Provide the Montgomery County Animal Control Department with an original copy of a Dangerous Dog Insurance Verification Affidavit.

3. Failure to register or secure a dangerous dog as required herein will subject the owner of the animal to criminal penalties prescribed by Texas Health & Safety Code § 822.035 and § 826.045.

## **SECTION V. VACCINATIONS**

The owner or custodian of every dog or cat shall have the dog or cat vaccinated against rabies as required by the Rabies Control Act of 1981, Chapter 826, Subchapter C. of the Texas Health & Safety Code, and the rules of the Texas Board of Health, and amendments thereto. Failure to vaccinate a dog or cat against rabies shall subject the owner or custodian of the unvaccinated animal to punishment prescribed by § 826.022 TEX. HEALTH & SAFETY CODE.

## **SECTION VI. RABIES CONTROL AND QUARANTINE**

When a dog or cat that has bitten a human has been identified, the owner or custodian shall place the animal in quarantine, as required by the Rabies Control Act of 1981, § 826.042 Texas Health & Safety Code, and the rules of the Texas Board of Health, and amendments thereto.

## **SECTION VII. TRAP NEUTER AND RETURN PROGRAM**

Trap-Neuter-Return (“TNR”) for Community Cats is the preferred method for controlling the Community Cat population. Animal control and any contracted shelter organizations shall prioritize Trap-Neuter-Return as the preferred outcome for Community Cats. Specifically:

- (a) Trapping of Community Cats is permitted only for the purpose of Trap-Neuter-Return unless a Community Cat is injured and veterinary care is required;
- (b) An eartipped cat received by local shelters shall be returned to the location where trapped unless veterinary care is required. A trapped eartipped cat shall be released on site unless veterinary care is required;
- (c) Community Cat Caregivers are empowered to reclaim impounded Community Cats without proof of ownership solely for the purpose of the implementation of Trap-Neuter-Return.

The Owner of any abandoned, stray, lost, free, roaming or feral cat which is trapped, seized or otherwise delivered to the Shelter and which would otherwise qualify as a Community Cat (“Qualifying Cat”) is deemed to hereby consent to the spay or neuter and eartipping of such Qualifying Cat and also consents to the participation of the Qualifying Cat in the TNR program. In the alternative, the Owner of any Qualifying Cat appoints the Animal Shelter Director, or his/her designee, as agent to consent to the spay or neuter and eartipping of such Qualifying Cat.

## **SECTION VIII. VIOLATIONS**

A person convicted of violating a section of this ordinance shall be punished by a fine not to exceed \$500 for each separate violation. A person who has been previously been convicted of a violation under this ordinance shall be punished by a fine of not less than \$250 and not more than \$1000 for each subsequent conviction.

### **Montgomery County Animal Control / Animal Shelter Fees Schedule**

| <b>Fee</b>  | <b>Amount</b> | <b>Disposition of Fee</b> |
|---|---------------|---------------------------|
| Transportation Fee (if picked up by Animal Control) | \$35.00       | General Fund              |
| First Impound Fee                                   | \$35.00       | General Fund              |
| Second Impound Fee                                  | \$70.00       | General Fund              |
| Third and Subsequent Impound Fee                    | \$100.00      | General Fund              |

|  |          |              |
|--|----------|--------------|
| Non-Sterilized Animal First Impound                | \$95.00  | General Fund |
| Non-Sterilized Animal Second Impound               | \$130.00 | General Fund |
| Non-Sterilized Animal Third and Subsequent Impound | \$150.00 | General Fund |
| Transportation for Quarantine Animal               | \$50.00  | General Fund |
| Dangerous Dog Annual Registration Fee              | \$50.00  | General Fund |

PASSED AND APPROVED this 24th day of January, 2017.

MONTGOMERY COUNTY, TEXAS

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CRAIG DOYAL, COUNTY JUDGE

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MIKE MEADOR, COMMISSIONER PCT. 1

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CHARLIE RILEY, COMMISSIONER PCT. 2

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JAMES NOACK, COMMISSIONER PCT. 3

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JIM CLARK, COMMISSIONER PCT. 4