

Ordinance No. 2008.12
Village of Salado
County of Bell
State of Texas
April 17, 2008

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, AMENDING AN ORDINANCE ADOPTING THE RABIES CONTROL ACT OF 1981 AND ESTABLISHING RELATED RULES (2002.16); PROVIDING A SAVINGS CLAUSE; A REPEALER; SEVERABILITY; AND PROPER NOTICE OF MEETING.

WHEREAS, Chapter 826 of the Texas Health and Safety Code establishes the Rabies Control Act of 1981, and authorizes a local government to adopt said chapter and to adopt such rules as are necessary to establish a local rabies control program, including setting standards that may be equal to or more stringent than those set out in Chapter 826 or adopted by the Texas Department of Health; and

WHEREAS, there is an existing problem in the incorporated area of the Village of Salado, Texas with stray cats and dogs, as well as other animals, that, if uncontrolled, presents a potential risk for the spread of rabies and a threat to the public health and safety of citizens of Salado, Texas; and

WHEREAS, the Board of Aldermen of the Village of Salado previously enacted Ordinance No. 2002.16 on September 5, 2002; and

WHEREAS, the Board of Aldermen of the Village of Salado deems it in the best interest of the Village of Salado to amend said Ordinance No. 2002.16 in its entirety and for said Ordinance No. 2002.16, to be replaced in its entirety as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS:

SECTION 1. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. Ordinance No. 2002.16 is amended in its entirety and shall read as provided in Attachment "A" attached hereto and incorporated herein as if fully set forth for all purposes.

SECTION 3. That the Rabies Control Act of 1981 as set out in Chapter 826 of the Texas Health and Safety Code is hereby adopted and the following orders are promulgated to establish a rabies control program in Salado, Texas, as set forth in Attachment "A".

SECTION 4. That this Ordinance shall become effective after its passage.

SECTION 5. This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations. Except to the extent they apply to obligations and violations arising prior to the enactment of this Ordinance. This Ordinance expressly repeals Ordinance No. 2002.16, which shall remain in effect only in regards to actions that were taken when Ordinance No. 2002.16 was applicable.

SECTION 6. All rights and remedies of the Village are expressly saved as to any and all violations of the provisions of any previous ordinances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. In the event that any one or more of the provisions, clauses, or words of this ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

SECTION 8. That the meeting at which this Ordinance was enacted, was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

PASSED AND APPROVED this, the 17th day of April, 2008, by a ___ (ayes) to ___ (nays) and ___ (abstentions) vote of the Board of Aldermen of Salado, Texas.

VILLAGE OF SALADO

Rick Ashe, Mayor

ATTEST:

Dianna Zulauf, Village Secretary

Section 1. Definitions.

1.01 "Animal" means any live, vertebrate creature, domestic or wild.

1.02 "Animal Control Officer" means any person designated by the Board of Aldermen, or any designee or agent of said employee, to perform the duties and responsibilities established by this order.

1.03 "Animal Shelter" means any facility used for the purpose of impounding and/or caring for animals that is operated by a humane society, another governmental entity, a private entity, a veterinarian, or Bell County, and which meets all standards for such facility as required by law and the Texas Department of Health.

1.04 "At large" means off the premises of the owner and not under the complete control of any person by leash, cord, chain, halter, cage, or other means of secure confinement, or not under the effective verbal command of the owner who is then physically present; or on the premises of the owner and not within the direct, constant and immediate presence of a person having effective verbal command, or otherwise confined to said premises by means of a leash, cord, chain, halter, cage, or other means of secure confinement, only where said animal is creating a nuisance.

1.05 "Cat" means *Felis catus*.

1.06 "Dog" means *Canis familiaris*.

1.07 "Keep" means to retain on a premises by any means; to harbor, control, own, or have custody or possession of.

1.08 "Licensed veterinarian" means a veterinarian licensed to practice veterinary medicine in the State of Texas.

1.09 "Maintain" means to feed, shelter, protect, provide for, or bear the expense of.

1.10 "Nuisance" means such actions on the part of an animal that constitute a legitimate threat to a person or property, or to the animal itself, or that cause a reasonable concern for the welfare of a person, property, or the animal itself.

1.11 "Owner" means any person, firm, association, corporation, partnership, or any other legal entity harboring, keeping, exercising effective control of, or maintaining an animal. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days.

1.12 "Person" means any natural individual, firm, association, corporation, partnership, or any other legal entity.

1.13 “Quarantine” means strict confinement of an animal as directed by the Animal Control Officer and in such a secure manner as to prevent escape and to avoid exposure or injury to any person or another animal by the animal quarantined

- A. on the private premises of the animal’s owner or at a facility approved by the Board of Aldermen and/or Animal Control Officer; and
- B. under restraint by closed cage or paddock or in any other manner approved by the Animal Control Officer.

1.14 “Rabies” means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

1.15 “Restrain” means to retain control by leash, cord, halter, cage, or other secure confinement, or by effective verbal command of the owner or other person, whether on or off the premises of the owner.

1.16 “Stray” means roaming with no physical restraint beyond the premises or control of an animal’s owner or keeper.

Section 2. Designation of Animal Control Officer.

2.01 There is hereby created the position of “Animal Control Officer”, which position shall constitute the Bell County local rabies control authority authorized by Chapter 826, Health and Safety Code.

2.02 The Animal Control Officer shall be employed and designated by and assigned to the Salado Police Department, and shall report to the Chief of Police on all matters relating to enforcement of this ordinance.

2.03 The Animal Control Officer shall have the responsibility for the following duties:

- A. Enforcement of the requirements of this ordinance, the provisions of Chapter 826 (Texas Health and Safety Code) and Texas Department of Health rules comprising the minimum standards for rabies control, and the rules established by the Texas Department of Health in the event of the declaration of an area rabies quarantine.
- B. Investigation of reports of stray dogs or cats or other animals in the incorporated areas of Salado, and the performance of any impoundment or regulation procedures authorized by this order.
- C. Maintenance of appropriate records pertaining to enforcement of this order as may be required by the Chief of Police or the Board of Aldermen.

- D. Concurrent jurisdiction with the Bell County Health District as pertains to animal or rabies control.
- E. Authority to issue citation to and file in the appropriate court a complaint on any persons alleged to have violated one or more provisions of this order.
- F. Conducting himself or herself in a proper law-abiding manner and avoiding the use of inhumane or unnecessary force on animals in the officer's possession or under his or her control.

Section 3. Designation of Local Rabies Control Authority.

3.01 The Belton Veterinary Clinic, 707 W. Loop 121, Belton, Texas is hereby appointed the Local Rabies Control Authority for the Village of Salado.

Section 4. Stray Cats and Dogs.

4.01 It shall be unlawful for the owner of a dog in the incorporated area of Salado to fail to restrain said dog or to allow said dog to run at large, and any stray dog shall be declared a public nuisance, subject to the requirements of this order. It shall be unlawful for the owner of a cat that has not been vaccinated for rabies to allow said cat to run at large, and any cat at large that has not been vaccinated for rabies shall also be declared a public nuisance, subject to the requirements of this order.

4.02 The Animal Control Officer or any peace officer shall be authorized to capture and impound any stray cat or dog and place said cat or dog in an authorized animal shelter. The Animal Control Officer or any peace officer may issue a citation to the owner of a stray cat or dog whether or not the animal is subsequently impounded.

4.03 In the event that a stray cat or dog or any other animal is of a vicious nature, and said animal's actions or behavior constitutes an immediate threat to the health and safety of any person, or said animal is about to elude capture by the Animal Control Officer, the Animal Control Officer or peace officer shall be justified in immediately destroying the animal by the use of the most reasonable means available at the time.

4.04 An impounded dog or cat shall be maintained in an animal control shelter for at least three (3) working days prior to release for adoption, unless sooner released to the owner, and no less than five (5) working days prior to humane destruction, not including the day of impoundment.

4.05 A reasonable effort will be made by the Animal Control Officer to locate the owner of any impounded dog or cat, if any, by license tag or other means, and notify said owner by telephone, mail, personal contact or leaving a written notice on the door of the owner's last known residence, of the location of the animal and the procedure for releasing the animal. Any impounded dog or cat, except those subject to quarantine, shall be released to its owner upon

payment of the appropriate fee charged by the animal shelter in which the animal has been impounded, as well as additional fees or expenses, if any, related to expenses of impoundment and boarding of the animal, upon presentation of satisfactory proof of ownership. No dog or cat shall be released until all fees due are paid by the owner. Possession of a vaccination certificate describing the dog or cat or bearing the same serial number that appears on a metal tag worn by the animal shall be accepted as *prima facie* proof of ownership.

4.06 Any impounded dog or cat not under quarantine that is not claimed and redeemed by an owner within three (3) working days following impoundment of the animal shall become the property of Village of Salado, and may then be released to any person for adoption in a suitable home for an appropriate adoption fee charged by the animal shelter in which the animal is impounded. The decision to release a dog or cat for adoption shall be in the sole discretion of the authorized custodian of the animal shelter in which the dog or cat has been placed for impoundment. The custodian may charge the new owner any necessary additional fees for sterilization of the animal, pursuant to a sterilization agreement required by law, or other medial treatment necessary to the health of the animal.

4.07 Any impounded dog or cat not under quarantine that is not claimed and redeemed by an owner or adopted by another person within five (5) working days following impoundment of the animal may be destroyed by the custodian of the animal shelter in which the animal has been impounded. The destruction of any animal shall be done in a humane manner, and the remains shall be disposed of lawfully.

4.08 All fees collected on behalf of expenses incurred by the Village of Salado for release of a dog or cat from impoundment shall be deposited with the Village Secretary, subject to any contractual agreements with the animal shelter involved. Such fees may be used only to defray the cost of enforcing this order.

Section 5. Rabies Vaccinations.

5.01 It shall be unlawful for a person to fail or to refuse to have each cat or dog owned by the person vaccinated against rabies by the time the animal is four (4) months of age and annually thereafter.

5.02 It shall be unlawful to keep or maintain in the incorporated areas of Salado a dog or cat over the age of four months that does not have a current rabies vaccination.

5.03 The veterinarian vaccinating any dog or cat against rabies shall deliver to the animal's owner a vaccination certificate, as approved by the Texas Board of Health, and a numbered metal tag corresponding to said certificate. The veterinarian shall maintain a record of said vaccination for at least two (2) years showing date of issuance and serial number of each tag issued, the name and address of the animal's owner, and a brief description of the cat or dog vaccinated. On request, a veterinarian shall provide to the Animal Control Officer ownership information on any animal contained in the veterinarian's vaccination records.

5.04 It shall be unlawful for any person to allow a dog or cat over the age of four months to be at large without wearing a current metal vaccination tag as issued by a veterinarian. It shall also be unlawful to cause a dog or cat to wear attached to its collar, or otherwise, a vaccination tag not issued for that dog or cat.

Section 6. Rabies Control.

6.01 Any person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall immediately report the incident or animal to the Animal Control Officer, to include the name and address of the victim and of the animal's owner, if known, and any other information that may help in locating the victim and/or the animal. It shall be unlawful for any person to fail to report an animal bite or scratch that could be reasonably foreseen as capable of transmitting rabies.

6.02 The Animal Control Officer shall investigate thoroughly any report of an animal bite or scratch to an individual, or of any suspected rabid animal.

6.03 The Animal Control Officer, or any veterinarian, shall quarantine in accordance with the rules of the Texas Department of Health any animal that the Animal Control Officer or veterinarian has probable cause to believe is rabid, may have been exposed to rabies, or may have exposed an individual to rabies by bite or scratch or other means. The animal shall be quarantined at the owner's expense for observation for a period of not less than ten (10) days following a bite, scratch, or exposure constituting a risk. Pending quarantine, such animal shall be confined by the owner in a building or other secure enclosure, or securely changed to prevent escape or injury to such animal and to prevent contact with other persons or animals. Failure of an owner to so confine an animal prior to quarantine shall be unlawful.

- A. Should an animal bite or scratch the owner or a member of his immediate family, the animal may be quarantined at the home of the owner without regard to vaccination or restraint of the animal at the time of the incident if a veterinary examination of the animal reveals no reason to suspect the presence of rabies in the animal. Should there be any doubt as to the presence of rabies in the animal by the examining veterinarian, then the animal shall be kept in quarantine at a facility approved by the Animal Control Officer. The animal shall be examined by a veterinarian at the conclusion of the quarantine period.
- B. Should an animal that has been vaccinated, and is properly confined or restrained on the owner's premises, bite or scratch a person who is trespassing on the owner's property, the animal shall be quarantined only if demanded by the person bitten or scratched, who shall pay in advance all fees incident to a veterinary examination and quarantine, or if ordered by the Animal Control Officer, in which case the animal shall be quarantined at an appropriate facility at no expense to the owner.

6.04 An owner shall submit at the Animal Control Officer's request any animal that is reported to be rabid or to have exposed an individual to rabies, or the owner knows or suspects is rabid or has exposed an individual to rabies. Failure of an owner or person in control of a suspect animal to submit such animal to the Animal Control Officer or a veterinarian as requested shall be unlawful.

6.05 If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, the veterinarian or Animal Control Officer shall release the animal to its owner at the expiration of the quarantine period if the owner has an unexpired rabies vaccination certificate of the animal, or the animal is vaccinated against rabies at the owner's expense.

6.06 If a veterinarian determines that a quarantined animal shows the clinical signs of rabies, the veterinarian or Animal Control Officer shall immediately and humanely destroy the animal. If the animal dies or is destroyed while in quarantine, the head or brain of the animal shall be removed and submitted to a Texas Department of Health laboratory for testing.

6.07 The owner of an animal quarantined under this order or state law shall be responsible for paying the veterinarian and/or Animal Control Officer all reasonable costs of the quarantine and disposition of the animal. In the event that an owner fails to redeem the quarantined animal within four (4) days following expiration of the quarantine period, the veterinarian or Animal Control Officer may sell the animal or keep or humanely destroy the animal.

6.08 If the owner of a quarantined animal is unknown, the animal shall be considered a stray and handled in accordance with this order.

6.09 Should any owner fail or refuse to comply with the provisions of this section, a justice court may, upon a finding of probable cause based on the affidavit of a credible person showing that the animal in question bit or scratched an individual, or is reasonably believed to have rabies or to have been exposed to rabies, issue an order to the Animal Control Officer or any peace officer directing that any suspect animal be seized and impounded for quarantine observation in accordance with this order. The expense of such quarantine shall be paid by the owner.

Section 7. Penalties.

7.01 Each offense identified in this Ordinance shall be a Class C Misdemeanor.

7.02 If on the trial of an offense under Section 6.01 of this Ordinance the court finds that the person has been previously convicted of an offense under Section 6.01, the offense is a Class B Misdemeanor.