

## ORDINANCE NO. 2010-3

AN ORDINANCE OF THE TOWN OF SAN FELIPE, TEXAS PROVIDING FOR THE HEALTH, SAFETY AND WELFARE OF CITIZENS; PROVIDING DEFINITIONS; PROVIDING FOR AN ANIMAL CONTROL OFFICER; PROVIDING RABIES VACCINATIONS FOR DOGS; PROVIDING VERIFICATION OF VACCINATIONS; PROVIDING PUBLIC NUISANCE; PROVIDING NUMBER OF DOGS LIMITED; PROVIDING RUNNING AT LARGE PROHIBITED; PROVIDING RESTRAINT; PROVIDING REPORT OF DOG ATTACKS; PROVIDING RELEASING OR DUMPING OF DOGS; PROVIDING ~~IN~~ IN HEAT; PROVIDING NOTICE OF IMPOUNDING PROVIDING RELEASE OF IMPOUNDED DOGS; PROVIDING THE KEEPING OF RECORDS; PROVIDING THE SLAYING OF DOGS POSING AN IMMEDIATE RISK; PROVIDING IMPOUNDMENT FEES; PROVIDING DISPOSAL OF CARCASSES; PROVIDING ENFORCEMENT; PROVIDING EFFECTIVE DATE; PROVIDING PENALTY; PROVIDING SEVERABILITY; AND REPEALING ALL ORDINANCES IN CONFLICT.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF SAN FELIPE, TEXAS;

**Section 1. Purpose.** The primary function and intent of this ordinance is protection of the health, safety and welfare of the citizens of the Town of San Felipe, Texas, by establishing uniform rules for the control and eradication of rabies.

**Section 2. Definitions.** For the purposes of this Ordinance, the following words, terms, or phrases shall have the meanings ascribed thereto:

- a. "ANIMAL CONTROL OFFICER": Any person appointed by the Town Council of San Felipe to perform such duties as required by this ordinance and/or state law.
- b. "AT LARGE": The condition of a dog that is not under the restraint, as defined below, or its owner of another person.
- c. "BITE": Puncturing, tearing, or bruising of the skin by a dog's teeth.
- d. "CONFINED OR CONFINEMENT": A dog shall be confined within a building or home, or within a mechanical or visible fenced yard or premises built to contain the dog and also to keep anyone from entering into the dog's area, so that the dog cannot escape from said building, house, or fenced yard or premises without human assistance.

- e. "DOG": Canine familiaris.
- f. "DANGEROUS DOG": A dog that:
  - a. 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
  - b. 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.
- g. "OWNER": Any person owning, keeping or harboring one or more dogs. An dog shall deemed to be harbored if it is fed, sheltered, or allowed or permitted to remain on a person's property without said person notifying the Town of San Felipe Animal Control Officer.
- h. "PERSON": Any individual, partnership, corporation, firm, association, trust or estate.
- i. "PROVOCATION": Any purposeful act that causes a dog to bite, scratch, or attack in protection of self, owner, or owner's premises. Entrance, in any manner, into an area where a dog is properly under restraint in compliance with Town ordinances would be considered provocation, irrespective of the reason for such entrance.
- j. "RESTRAINT": All dogs must be restrained in a manner that complies with Subchapter D, Chapter 821 of the Texas Health and Safety Code. For purposes of this Ordinance, "restraint" means either of the following:
  - a. Secured by a leash or lead and under the control of a responsible person while off the owner's premises; or
  - b. Confined to realty or premises of the owner by fence or other legally authorized manner.
- k. "SICK DOG": A dog either not on its owner's property or, not under leash control of its owner, and without a collar and tag as required by Section 4 herein.
- l. "VACCINATION": A proper injection of a rabies vaccine licensed for use in dogs by the United States Department of Agriculture or the Texas Department of Health.

**Section 3. Animal Control Officer.**

The San Felipe Town Council shall appoint an ANIMAL CONTROL OFFICER to enforce all provisions of this ordinance, including gathering up and impounding or quarantining or humanely euthanizing any dog found in violation of this ordinance. If the appointed Animal Control Officer is not a certified peace officer, he or she must complete the training required by Chapter 829 of the Texas Health & Safety Code.

**Section 4. Rabies Vaccination Required for Dogs.**

(a) Every owner shall have his/her dog vaccinated against rabies by the time the dog is four (4) months of age. Said rabies vaccine shall be administered by a duly licensed veterinarian. The immunization shall be for a period of up to one (1) year, but in no event shall any owner fail to keep any such dog immunized during such dog's lifetime.

(b) The owner shall secure, from the veterinarian who vaccinates the owner's dog(s), a certificate of vaccination containing the following information:

- (1) The owner's name, address and telephone number.
- (2) The dog's species, sex, age, predominant breed, color, and approximate weight.
- (3) Vaccine used, producer, expiration date and serial number.
- (4) Date vaccinated.
- (5) Rabies tag number, which shall be entered upon receipt of the tag.
- (6) Veterinarian's signature and license number.

(c) It shall be an offense for any person to fail to secure the rabies vaccinations required herein for a dog subject to their control.

**Section 5. Verification of Vaccination.**

(a) Every owner shall affix a collar securely around the neck of such owner's dog, and shall attach thereto a metal tag engraved with the name, address and phone number of the owner, and a metal rabies tag engraved to show compliance with the vaccination requirements of Section 4 above.

(b) It shall be an offense for a person to fail to affix the tags required herein for a dog subject to their control.

**Section 6. Public Nuisance.**

(a) It shall be an offense for the owner of any dog to fail to exercise proper care and control of his dog and the premises where said dogs are kept to prevent them from becoming a public nuisance.

(b) A dog constitutes a public nuisance if that dog unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than its owner, to enjoyment life or property. The term "public nuisance dog" shall mean and include, but is not limited to, any dog that:

- (1) Overturns garbage containers or scatters garbage in anyway;
- (2) Damages the property of anyone other than its owners;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Excessively and repeatedly makes unprovoked disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

- (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored:
- (8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number and/or types of animals maintained; or
- (9) Attacks other domestic animals; or
- (10) Acts as a dangerous dog by causing bodily injury less severe than serious bodily injury defined in Texas Health & Safety Code 822.001(2).

**Section 7. Keeping Dogs.**

It shall be an offense for any person to own, keep, or harbor more than five (5) dogs over four (4) months of age at any one address or location within the city limits of San Felipe.

**Section 8. Running At-Large Prohibited.**

It shall be an offense for the owner or keeper of any dog to permit or allow such dog to run at large within the city limits of the Town of San Felipe, Texas.

**Section 9. Keeping Dangerous Dog or Public Nuisance Dog.**

(a) No owner shall fail to exercise proper care and control of his dog(s) to prevent them from becoming a public nuisance.

(b) It shall be an offense to keep any dog within the Town that has been deemed a dangerous dog or is found to be a public nuisance as defined by Section 6(b)(9) or Section 6(b)(10) of this Ordinance. In addition to criminal prosecutor, the Town of San Felipe may order that such dog be kept within a sufficient enclosure, or that such dog be permanently removed from the corporate limits of the Town of San Felipe. or that such dog be delivered to the Animal Control Officer to be humanely euthanized.

**Section 10. Report of Dog Attacks.**

Any person having knowledge of a dog bite or scratch or other attack on an individual or of a dog that the person suspects is rabid, shall report the incident or dog to the Animal Control Officer or the San Felipe Police Department. The report shall include the name and address of any victim and of the owner of the dog, if known, and any other data which may aid in the locating of the victim or the dog. The person shall make said report as soon as possible, but not later than twenty-four (24) hours from the time of the incident.

**Section 11. Releasing or Dumping of Dogs.**

It shall be an offense to dump, release or abandon any dog, on any property, whether public or private, within the Town of San Felipe's city limits.

**Section 12. Notice of Impounding.**

As soon as possible after any dog has been delivered to or picked up by the Animal Control Officer or his representative, it shall be his duty to post or enter a record of each dog, describing each dog, whether bearing a rabies vaccination tag or not, and giving the number of the rabies tag. In case the dog bears a rabies vaccination tag, the Animal Control Officer shall contact the Veterinarian listed on the tag to obtain the name and address of the owner of the dog. The Animal Control Officer may, but is not obligated, to notify the person to whom the Veterinarian lists as the owner. The owner may be notified in person, by letter, postal card, telephone, or other written notice. The owner shall be deemed notified upon mailing of said letter or postal card or leaving written notice whether the dog or the animal received the notice or not.

**Section 13. Release of Impounded Dogs.**

If an impounded dog is found to be free from rabies or other infectious or contagious diseases, the Animal Control Officer shall release it to the owner if:

- (1) the owner pays the impoundment and boarding fees as listed in Section 17(g), for each dog that may be impounded.
- (2) the owner redeems his dog within the seventy-two (72) hours later their capture and impoundment; and
- (3) the owner has an unexpired rabies vaccination certificate for the dog.

**Section 14. Authority to Slay Dogs Posing a Risk.**

The Animal Control Officer or his designated agent is authorized to slay a dog in the performance of his duties under this Ordinance when, in his judgment, such a dog poses a risk to his life or safety or to another person's life or safety or a risk to the life or safety of another animal.

**Section 15. Keeping of Records.**

Then Animal Control shall keep complete records of the care, feeding, veterinary treatment, and disposition of all dogs impounded. Such dog may, if deemed necessary, be slain by any authorized Law Enforcement Officer of Animal Control Officer.

**Section 16. Impoundment and Fees.**

(a) Unvaccinated dogs, dangerous dogs, and nuisance dogs may be taken by the Animal Control Officers, or Law Enforcement Officers and impounded in an animal shelter and there confined in a humane manner and cared for in a manner that comports with Texas Health & Safety Code 821.002. Any dog that poses a threat to public health and safety, or any dog that has been cruelly treated or abused may be impounded. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, and to enforce the same, the Animal Control Officer or any Law



Enforcement may enter upon private property to the full extent permitted by law, which shall include, but not be limited to, entry upon private, unfenced property when in pursuit of any dog which he/she has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws.

(b) Any impounded dogs shall be kept for not less than 72 hours unless claimed by owner.

(c) Sick or injured dogs wearing no apparent identification through which ownership can be determined may be euthanized at the discretion of the Animal Control Officer and animal shelter staff after consultation with a licensed veterinarian prior to the expiration on the 72 hour holding period. Euthanasia shall be conducted in conformance with Texas Health & Safety Code 821, Subchapter C.

(d) No sick impounded dog shall be released to the owner until the Animal Control Officer shall be satisfied that arrangements have been made for proper treatment of the sick dog.

(e) Any dog not reclaimed by its owner within 72 hours shall become the property of the Town of San Felipe or humane society and shall be placed for adoption in a suitable home or humanely euthanized. The adoption fee shall be \$35.00 per animal plus the cost of the rabies vaccination.

(f) Any owner claiming an impounded dog shall pay a fee to the Town of San Felipe prior to the release of said dog. Said fee shall be established from time to time by the Board of Aldermen.

(g) The following impoundment and boarding fees must be paid for each animal impounded:



1<sup>ST</sup> IMPOUNDMENT - \$25.00 Plus \$7.00 Per Day for Boarding

2<sup>ND</sup> IMPOUNDMENT - \$50.00 Plus \$7.00 Per Day for Boarding

3<sup>RD</sup> IMPOUNDMENT - \$100.00 Plus \$7.00 Per Day for Boarding

4<sup>TH</sup> IMPOUNDMENT - \$200.00 Plus \$7.00 Per Day for Boarding

**Section 17. Disposal of Carcasses.**

Carcasses of all dogs shall be deposited in such place and in such manner as may be designated or prescribed for such purpose by the Animal Control Officer. The carcasses of all dogs shall be properly disposed of in accordance with the provisions of this Ordinance as soon as possible, but under no circumstances not later than 24 hours after death.

**Section 18. Enforcement.**

The provisions of this Ordinance shall be enforced by the Animal Control Officer or any Police Officer. It shall be a violation of this ordinance to interfere with the Animal Control Officer or any Police Officer in the performance of his duties.

**Section 19. Effective Date.**

This Ordinance shall be in full force and effect from and after its passage and its publication as provided by law, except for the prohibition of dogs running-at-large which shall be in full force and effect thirty (30) days from and after its passage and its publication as provided by law. Publication shall be by caption only.

**Section 20. Penalty.**

Any person violating any provision of this Ordinance or who shall fail to comply with any requirement hereof, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed five hundred dollars (\$500.00).

Each day of violation of any term or provision of this Ordinance shall constitute a separate offense.

**Section 21. Severability.**

In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional and the Town Council of the Town of San Felipe, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

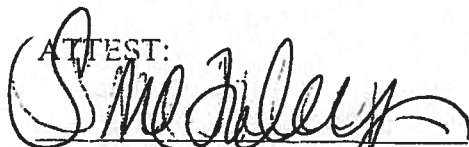
**Section 22. Conflicting Ordinance.**

(a) Ordinance No. 1993-2 is hereby repealed.

(b) All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed

PASSED AND APPROVED by the Town Council of the Town of San Felipe, Texas this the 9<sup>th</sup> day of February, 2010.

  
Bobby Byars, Mayor

ATTEST:  
  
Sue Foley, Town Secretary