

ORDINANCE NO. 080415

AN ORDINANCE OF THE CITY OF SIMONTON, TEXAS, PROVIDING RULES AND REGULATIONS GOVERNING THE KEEPING OF ANIMALS; PROVIDING DEFINITIONS; ESTABLISHING THE POWERS AND DUTIES OF THE CITY'S HUMANE OFFICERS; PROVIDING FOR RABIES VACCINATIONS; PROVIDING FOR PERMITTING FEES; PROVIDING PROCEDURES FOR REGULATING, QUARANTINING, IMPOUNDING, CONTROLLING, AND DISPOSING OF DANGEROUS OR RABID DOGS AND OTHER ANIMALS; MAKING IT UNLAWFUL TO KEEP WILD OR EXOTIC ANIMALS; MAKING IT UNLAWFUL TO ABANDON OR DUMP ANIMALS; PROVIDING FOR THE CARRYING OF LIABILITY INSURANCE BY OWNERS OF DANGEROUS ANIMALS; DECLARING A PUBLIC NUISANCE; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; PROVIDING A GENERAL PENALTY OF AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 92042101, ADOPTED THE 21ST OF APRIL 1992 AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMONTON, TEXAS:

Section 1. ADOPTION BY REFERENCE.

Animal population, animal control, prohibition, and exceptions for keeping wild or exotic animals, rabies vaccinations, rabies eradication, permits, fees, revocation of permits, quarantining, impoundment, nuisances, kennels, etc., shall be accomplished and regulated in accordance and conformance with this Article, the Texas Health & Safety Code, Chapter 826, "Rabies," and Chapter 822, "Regulation of Animals," and the Texas Administrative Code, Title 25, Part 1, Chapter 169, "Rabies Control and Eradication," or the current or latest addition and/or revision of said rule or law which are made part hereof.

Section 2. PURPOSE.

The Purpose of this article is to promote the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the city. This article sets forth necessary controls on the unrestrained activities of animals which threaten the safety and pleasantness of streets, parks, sidewalks, yards, and all areas of the city.

Section 3. DEFINITIONS.

For the purpose of this Article, the definitions as stated in the current or latest “Rabies Control and Eradication” rules in Chapter 169 of Title 25, Part 1 of the Texas Administrative Code, Chapter 826 of the Texas Health & Safety Code, and other definitions as stated in Chapter 822 of the Texas Health & Safety Code shall also apply with the following additions:

- a) “Animal” shall mean a warm or cold-blooded animal.
- b) “At Large” shall mean any dog or cat located off the premises of its owner or keeper and not under the physical restraint of its owner.
- c) “City” shall mean the City of Simonton, Texas.
- d) “Director” shall mean the Supervisor of the Animal Control Department of the City or his duly authorized representative eg. Ft Bend County Animal Control.
- e) “High risk animals” shall include skunks, bats, foxes, and raccoons.
- f) “Kennel” shall mean any building, establishment, place, or premises wherein any person engages in the boarding, breeding, buying, selling, letting for hire, or training for a fee any canine or feline animal or animals.
- g) “Low risk animals” are all animals of the orders marsupialia, insectivora, rodentia, lagomorpha, and xenartha.
- h) “Owner” shall mean any person, partnership, or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed, sheltered, or allowed or permitted to remain on a person’s property or property under control of said person for three (3) or more days without said person notifying the office of the Director. If the owner/keeper of an animal is a minor, the parent or guardian of that minor shall be responsible for compliance with the specifications of this Article.
- i) “Person” shall mean an individual, partnership, firm, public or private corporation, association, trust, or estate.
- j) “Quarantine” shall mean complete and total isolation in such a place and in such a manner and for a period of time as may be prescribed by the Director.
- k) “Regulatory authority” shall mean the Director of the City or his duly authorized representative.
- l) “T.D.H” shall mean the Texas Department of Health.
- m) “Veterinary hospital” shall mean any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.
- n) “Wild animal” shall mean and include any mammal, amphibian, reptile, or fowl which is of a species which is wild by nature, and of a species which, due to size, dangerous nature, or other characteristic is or may be dangerous to human beings. Such animals shall include, but

not be limited to, lions, tigers, leopards, panthers, lynx, wolves, raccoons, ferrets, skunks, (whether deodorized or not), monkeys whose average weight as an adult exceeds twenty (20) pounds, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles. The term “wild animal” as used in this Article shall not include gerbils, hamsters, guinea pigs, mice, or rabbits, non-poisonous reptiles, parakeets, parrots or other caged birds.

Section 4. RABIES VACCINATION REQUIRED.

a) Immunization Period

Each person owning, harboring, or having in his or her possession a dog or cat shall have the dog or cat vaccinated against rabies, by the time the animal is four(4) months of age, by means of an anti-rabies vaccine approved by the T.D.H.. The rabies vaccine shall be administered by a duly licensed veterinarian. The immunization shall be for a period of not less than one (1) year. No dog or cat over four (4) months of age shall be brought into the City which has not been vaccinated for rabies.

b) Certificate of Vaccination

Every veterinarian who vaccinates any dog or cat within the City shall issue a certificate of vaccination to the owner, stating the name and address of the owner, description of the dog or cat, the date of the vaccination, number of the rabies vaccination tag, and in addition, other information as specified by the veterinary licensing agency which the owner shall be present or give to the Director upon request.

Section 5. RABIES VACCINE ADMINISTERED.

a) Vaccination

To prevent improper vaccination of animals and the accidental exposure of humans to rabies, rabies vaccine for animals shall be administered only by or under the direct supervision of a veterinarian who is licensed to practice in the State of Texas.

b) Sale of Vaccine

No person shall sell or distribute rabies vaccine for animals to any person except a licensed veterinarian or to a person working in a veterinary clinic who accepts the vaccine on behalf of the veterinarian.

c) Licensed Pharmacy

This Article does not prohibit a pharmacy licensed by the Texas state Board of Pharmacy from supplying rabies vaccine for animals to licensed veterinarians.

Section 6. DOGS RUNNING AT LARGE PROHIBITED.

a) At Large

No owner or keeper of any dog shall permit or allow such dog to run at large within the limits of the City. The owner or keeper of any dog running at large shall be in violation of this Article. Dogs in vehicles shall be restrained in a manner which will not cause injury and will prevent the animal from reaching the outside of the vehicle. It shall be unlawful for the owner of any animal, or any person having an animal in his custody, to allow it to run at large unattended on or about the streets and highways of the City, or the property of another person without permission of the owner of that property or of the person in possession of that property. It shall be the duty of the owner of any animal or any person having an animal in his possession to keep that animal under control at all times while the animal is off the real property limits of the owner, possessor or custodian. Under control means confined within a vehicle, parked or in motion, secured by a leash or other device held by a competent person, or properly confined within an enclosure with the permission of the owner of the property where the enclosure is located. Such restriction shall not apply to cats.

b) At Large on Private Property

Any dog found at large upon private property other than the property of its owner or keeper may be taken up by the person upon whose private property the dog is at large on or the Director, or by Fort Bend County Animal Control and delivered to the Fort Bend County Animal Control. It shall be the duty of every owner of any animal, or any person having any animal in his possession or custody, to ensure that the animal is enclosed by a fence or other enclosure or is restrained by a leash or in some other physical manner or under control by a competent person so that it cannot wander off the real property limits of its owner, possessor or custodian except as provided in this Article. It is the intent of this Article that all animals be prevented from leaving while unattended the real property limits of their owners, possessors or custodians thereof.

c.) Notice

Any person other than the Director who takes up any animal under the provisions of this Article or otherwise shall immediately thereafter give notice thereof to the Director. Every such person, or any person in whose custody such animal may in the meantime be placed, shall upon demand deliver such animal to the Director. The animal shall be delivered to a place designated by the Director, without fee or charge, and the Director shall thereupon hold and dispose of such animal as though such animal had been found running at large and impounded by the Director.

d.) Penalty

Any person who shall commit any act prohibited or made or declared to be unlawful by this Section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed five hundred dollars (\$500). Each violation shall constitute a separate offense.

Section 7. DANGEROUS DOGS AND ANIMALS.

a.) Declaration of a Dangerous Dog or Animal.

The Director may find and declare a dog or other animal to be a dangerous dog or other animal if the Director has cause to believe that a dog or animal has dangerous tendencies as defined in Sec. 7(b) of this Article.

b.) Dangerous Tendencies. For the purposes of this Article the following are hereby declared to possess dangerous tendencies:

- 1) any dog or animal that inflicts severe injury or death to a person, or bites a person on public or private property; or
- 2) any dog or animal that has killed a domestic animal without provocation while off the owner's property; or
- 3) any dog or animal which chases or approaches a person upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack such that a person of ordinary sensibilities would reasonably believe that the dog or animal would cause physical injury to that person; or
- 4) any individual dog or animal with known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of persons or domestic animals; or
- 5) "dangerous dogs" and "dangerous wild animals" defined in Section 822.041(2) and Section 822.101(4), respectively, of the Texas Health & Safety Code.

c.) Notification and Requirements for Owner of Dangerous Dog or Animal.

The Director shall notify the owner of a dog or animal of its designation as dangerous and the requirements for owners of dangerous dogs or animals as set forth in this Article and Chapter 822 of the Texas Health & Safety Code. The notice required herein shall be served as stated in Sec. 21(c) of this Article.

d.) Possession Prohibited.

It shall be unlawful for any person to buy, sell, possess, keep, permit, suffer, cause, or allow any dangerous dog or animal upon or within any premises within the City. If a dog or animal is declared dangerous, the owner must remove the dog or animal from the City within ten (10) days and provide proof that such dog or animal has been removed, or the owner will be in violation of this Article.

e.) Dangerous Dog or Animal at Large.

Any dangerous dog or animal found at large, after the owner thereof has been issued notice that such dog or animal is dangerous, may be destroyed by the Director or his designee, or by any peace officer, without the officer having to catch or impound such dog or animal, or notify its owner.

f.) Appeal from Decision of Director.

If a dog or animal is declared to be dangerous under this Article, the owner may appeal such declaration in accordance with Section 28 of this Article. Any dog or animal that is declared to be dangerous under this Article, shall be impounded, and remain impounded, during any appeal of such declaration.

g.) Defense to Declaration of Dangerous Animal

It is a defense to the determination that a dog or animal is dangerous and to the prosecution of the owner of a dog or animal previously declared to be dangerous:

- 1) if the person killed, injured, bitten, or in fear of injury was teasing, tormenting, abusing, or assaulting the animal or has, in the past, teased, tormented, abused, or assaulted the animal; or
- 2) if the person killed, injured, bitten, or in fear of injury was committing or attempting to commit a crime; or
- 3) if the domestic animal killed was at the time teasing, tormenting, abusing, or assaulting the animal; or
- 4) if the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault; or

- 5) if the animal was injured and responding to pain; or
- 6) if the animal was protecting its offspring, itself, or its kennelmates;
or
- 7) if the owner or other responsible person is eligible for an exemption as 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 dangerous animal in connection with that position. Prior to being eligible for an exemption under this Section, a person must notify the City and apply for such exemption. All applications shall be determined by hearing, in accordance with Section 22 of this Article.

h.) Penalty

Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Section, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not less than \$200 and not to exceed \$2000. Each day of violation shall constitute a separate offense

Section 8. BITCH DOGS IN HEAT.

Bitch dogs in heat shall be securely confined by the owner to the premises of the owner in such a manner as shall not create or cause to be created a nuisance of any kind to any person or persons.

Section 9. REPORT OF ANIMAL ATTACKS.

Any person having knowledge of a dog or other animal bite or scratch or other attack on an individual or of a dog or other animal that the person suspects is rabid, shall report the incident to the Director of the City. The report shall include the name and address of any victim and of the owner of the dog or other animal, if known, and any other data which may aid in the locating of the victim or the dog or other animal. 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 10. KILLING RABID ANIMALS, ETC.

It is hereby made the duty of the Director and his certified officers to make arrangements for the extermination of any and all dogs or other animals at-large, when said animals are, or reasonably appear to be, affected with rabies, or any other infectious, contagious, or dangerous disease or when a dog or other animal is attacking, or when such dog or other animal is sick,

injured, or in such other condition as it may not be expected to live; provided that any dog or other animal suspected of rabies shall be killed in such a manner as not to damage the brain. The officer killing such dog or other animal, before disposing of same, shall report it to the Director who shall order the disposal of the carcass as he deems necessary and said officer shall further submit a written report to the Director containing the facts thereof. The Director shall attempt to notify the owner, if known or ascertainable from the dog or other animal's license tag, if any, of the killing prior to disposal, which notice shall also include the Director's plan of disposal.

Section 11. QUARANTINING OF RABIES SUSPECTS.

(a) Approved Shelter

Any dog or other animal that has rabies or symptoms thereof, or that bites, scratches, or otherwise attacks any person within the City shall be quarantined by the owner of said dog or other animal. The owner shall quarantine the dog or other animal as soon as possible, but not later than twenty-four (24) hours from the time of the incident. The quarantine period shall be ten (10) days or longer in a public or other place of confinement designated or approved by the T.D.H. or under such conditions and in such a manner as may be prescribed by the T.D.H.. It shall be a violation of this Article for the owner or any such person to remove any dog or other animal that is required to be quarantined or euthanized or which is otherwise in violation of this Article from the jurisdiction of the City without written consent from the Director.

(b) Release Animal to Director

The Owner, keeper, or person in charge of any dog or other animal that has rabies, or that has been exposed to rabies, or that has symptoms thereof, or that has bitten, scratched, or otherwise attacked any person or other animal, or that is quarantined as a rabies suspect, shall on demand, turn over said dog or other animal to the Director.

(c) Unowned Dogs and Cats

At the discretion of the Director, an unowned dog or cat which has bitten a human may be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a T.D.H. certified laboratory for rabies diagnosis.

(d) High Risk Animals

If the biting animal is a high risk animal, it shall be humanely killed and the brain submitted for rabies testing.

(e) Low Risk Animals

If the biting animal is a low risk animal, a quarantine or rabies test will not be required unless the Director has cause to believe the biting animal is rabid.

(f) Wild Animals

No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a T.D.H. certified laboratory for rabies diagnosis.

(g) Exceptions

Any dog or other animal inflicting a severe bite which breaks the surface of the victim's skin shall be humanely killed and the brain tested for rabies. An exception to this requirement may be granted by the health authority providing the following criteria are met:

- (1) the biting animal is a domestic dog or domestic cat; and
- (2) it is currently vaccinated against rabies; and
- (3) it was not in violation of any law at the time of the bite.

If an exception is granted, the dog or cat shall be quarantined in accordance with this Article; however, home quarantine is prohibited.

(h) Head Submitted – Quarantine

If the biting animal is not a dog or cat or otherwise included in this Section, the biting animal will be humanely killed and the brain tested for rabies or the health authority may require the animal to be quarantined for thirty (30) days as an alternative to killing and testing.

(i) Submitted to Laboratory

Any dog or other animal ordered confined in quarantine that cannot be maintained or placed in secure quarantine, shall be humanely destroyed and the brain submitted to a T.D.H. certified laboratory for rabies

diagnosis. The owner of a dog or other animal which has been declared Dangerous, that bites a person, shall upon demand, turn over such dog or other animal to the Director. The Director shall humanely kill the dog or other animal and the brain shall be submitted for rabies examination.

(j) Fees and Cost

Transportation, capture, laboratory cost, veterinarian fees, impoundment or quarantine cost, euthanasia, body disposal, and any and all other fees, costs, charges, and duties shall be the direct responsibility of the dog or other animal owner or custodian. Failure of the owner to pay such costs and fees shall constitute a violation of this Article.

(k) Released or Moved From Quarantine Prohibited

No dog or other animal shall be released or moved from the place of approved confinement, except by the Director, until after the ten (10) day quarantine period then only after inspection of the dog or other animal has been made and its release approved by the Director.

(l) Vaccination of Quarantined Animals

No dog or other animal confined or quarantined as a rabies suspect as required herein shall be given a rabies vaccination until after the ten (10) day quarantine period. All unvaccinated dogs or other animals shall then be vaccinated.

(m) Rabies Suspected

If a quarantined dog or other animal is found to be rabid or if in the opinion of the Director or veterinarian, is suspected of being rabid, the Director shall humanely destroy the animal or cause the animal to be humanely destroyed and the brain submitted to a T.D.H. certified laboratory for rabies diagnosis.

Section 12. NOTICE OF IMPOUNDMENT.

As soon as possible after a dog or other animal has been delivered to or picked up by the Director, a record of said dog or other animal will be recorded. The record shall include a description of each dog or other animal, whether bearing a license tag or not, and the number of the tag and the name of the person registering the dog or other animal in each case where the dog or other animal bears a license tag. In case the dog or other animal bears a license tag, the Director shall notify the person to whom such license tag was issued. The owner of said dog or other animal may be notified in person, telephone, or written notice left at his last known

residence. The owner shall be deemed notified upon mailing of said letter or postal card or leaving of said written notice whether the owner of the dog or other animal receives the notice or not.

Section 13. RELEASE OF QUARANTINED AND IMPOUNDED DOGS OR OTHER ANIMALS.

If a quarantined or impounded dog or other animal is found to be free from rabies or other infectious or contagious diseases, the Director shall release it to the owner following the quarantine or impoundment period as specified in this Article if:

- (1) the owner pays such impoundment fees as may be established from time to time by the City for each dog or other animal so redeemed, in addition to any tax or fine. No wild or exotic animal shall be released except to persons who qualify and comply with the requirements of this Article; and
- (2) the owner redeems his dog or other animal within five (5) days, if such dog or other animal is licensed and is wearing a license tag, or within seventy-two (72) hours if such dog or other animal is not licensed or is not wearing a license tag, following release from quarantine or impoundment; and
- (3) the owner of a dog or other animal has an unexpired rabies vaccination certificate and license for the animal; or
- (4) the dog or cat is vaccinated against rabies by a licensed veterinarian at the owner's expense and a license for the animal is obtained; and
- (5) the owner presents proper identification and proof of ownership;
- (6) all fees, costs, or charges incurred have been paid by the owner of the dog or other animal; and
- (7) the dog or other animal is not considered a dangerous dog or animal in accordance with Section 7 of this Article.

Section 14. DISPOSAL OF QUARANTINED AND IMPOUNDED DOGS AND OTHER ANIMALS.

(a) Owner Fails to Claim

The Director may sell for non-experimental or non-research purposes and deposit the proceeds in the City's general fund, keep, grant, or humanely

destroy any dog or other animal that the owner or custodian does not take possession of as provided in Sec. 22.

(b) Sick or Injured Animals

It is expressly provided that in the case of disease, sick, injured, or otherwise unhealthy dogs or other animals impounded under these regulations, other than those affected or thought to be affected by rabies, it shall be unnecessary to await the expiration of the impounded or redemption period before disposing of such dog or other animal if, under the circumstances, the Director determines that it would be inhumane to fail to dispose of any such dog or other animal.

Section 15. KEEPING OF WILD ANIMALS PROHIBITED.

The primary purpose and intent of this Section is to protect the public's health, safety, and welfare. It is also the purpose and intent of this Section to prevent the owning, keeping, or harboring of wild animals as pets within the City.

(a) Possession Prohibited

It shall be unlawful for any person to buy, sell, possess, keep, permit, suffer, cause, or allow any wild or exotic animal upon or within any premises within the City.

Section 16. RELEASING OR DUMPING OF DOGS OR OTHER ANIMALS.

(a) Violation to Dump

It shall be a violation of this Article for any person to dump, release, or abandon any dog or other animal on any property, whether public or private, within the City. A dog or other animal shall be considered abandoned if the owner has not provided care, including food, water, or shelter, for three (3) or more consecutive days.

(b) Person Having Knowledge of Dumping

Any person having knowledge of any dog or other animal which has been or is believed to have been dumped, released, or abandoned shall so notify the Director and shall give all pertinent information including description and location of the dog or other animal and the name, address, car license number, or any other information or description of the person who dumped, released, or abandoned the dog or other animal, if known.

(c) Keeping, Harboring, or Feeding Strays

Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray dog or other animal or any dog or other animal which has been dumped, released, or abandoned, to remain on the person's property for three (3) or more consecutive days without notifying the City, shall hereby be deemed the owner of said dog or other animal.

Section 17. PUBLIC NUISANCE.

(a) Failure to Exercise Proper Care

Every owner shall exercise proper care and control of his dog(s) or other animal(s) and the premises where said dog(s) or other animal(s) are kept to prevent them from becoming a public nuisance.

(b) Condition Constitutes Nuisance

All of the following conditions, situations, or occurrences are hereby declared to be a public nuisance and constitutes failure of the owner to exercise proper care and control of his dog or other animal and/or the premises where said dog or other animal have been kept:

- (1) Any dog or other animal which turns over garbage containers or scatters garbage or which otherwise damages private or public property;
- (2) Any dog or other animal at large or free-roaming off of private property owned or controlled by the owner thereof;
- (3) Any dog or other animal which barks, whines, howls, or makes other sounds or noises in an excessive, continuous, or untimely fashion; or
- (4) Any building, room, cage, kennel, yard, run, or any other place or facility where dogs or other animals are kept or harbored which is not maintained in a clean and sanitary condition so as to prevent obnoxious odors, the attraction, breeding, or potential breeding of flies, the attraction, harboring, or breeding of rodents, or potential breeding of rodents or the creation of any other public health nuisances.

Section 18. PERMITS REQUIRED FOR KENNELS.

a) Valid Permit Required

Any person conducting, managing, owning, or maintaining a kennel must have a valid, neither suspended nor revoked, permit for said establishment.

b) Permit Fees

Any person in the City conducting, managing, owning, or maintaining a kennel shall obtain an annual permit to do so from the Director and pay a permit fee as follows:

- 1) For each kennel authorized to house less than ten (10) dogs or cats\$250.00
- 2) For each kennel authorized to house ten (10) to twenty-five (25) dogs or cats.....\$500.00
- 3) Veterinary Hospitals are exempt from these fees.

c) Application for Permit

Any person desiring to construct or operate a kennel shall make written application for a permit on forms provided by the City.

d) Location of Kennel

Kennels may not be located within two hundred fifty (250) feet of any actual residence or habitation for human beings, or within two hundred fifty (250) feet of any church, school, or hospital, other than the residence of the keeper, possessor, or owner of such dog kennel, such distance of two hundred fifty (250) feet to be measured in straight line from the nearest point of any kennel, pen, enclosure, or other structure in which such dogs are kept to the nearest point of such actual residence or place of human habitation, or church, school, or hospital.

e) Equipment Requirements

All Kennels must comply with any equipment and facility requirements as may be adopted by the City.

f) Validation Period

Each permit issued under the provisions of this Article shall be valid for a period beginning January 1st and, regardless of date issued, will expire December 31st of the same year.

g) Inspections

It shall be a condition of the issuance of any permit that the Director shall be permitted to inspect all dog or other animals and the premises where the dogs or other animals are kept at any reasonable time and shall, if permission for such inspection is refused, suspend and/or revoke the permit of the refusing owner. It shall be unlawful for any owner to deny access to the Director in violation of this Subsection.

h) Animal Cruelty

No person who is or has been convicted of cruelty to a dog or other animal shall be issued or allowed to hold a permit to operate a kennel.

Section 19. COLLECTION FEES.

a) Fees Prerequisite

All permit fees shall be paid to and collected by the City before any permit will be issued.

b) Accounting

The Director shall keep a current and accurate accounting of all permit fees and other monies collected, the name of all persons upon whose account the same was paid, the date, and amount therefore.

Section 20. SUSPENSION OF PERMIT.

a) Failure to Comply

The Director may suspend any kennel permit at any time for failure of the permit holder to keep his or her establishment and/or premises in a sanitary condition. A permit may also be suspended for willful repeated violations of any of the requirements of this Article or of any federal, State or local law, or other article, or rule governing the protection and keeping of dogs or other animals.

b) Hearing Request

Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Director by the holder of the permit within ten (10) days. If no written request for a hearing is filed within said ten (10) day period, the suspension is sustained. The Director may end the suspension at any time if reasons for the suspension no longer exist.

Section 21. REVOCATION OF PERMIT.

a) Failure to Comply

The Director may, after providing opportunity for a hearing, revoke a permit for serious, willful or repeated violations of any of the requirements of this Article or of any federal, State, or local law or other ordinance or for interference with the Director in the performance of his duties. Two (2) or more convictions within a twelve (12) month period shall constitute repeated violations. The Director may suspend, revoke, or withhold a permit if the applicant withholds, falsifies, or misrepresents any information on the application form.

b) Hearing Request

Prior to revocation, the Director shall notify the holder of the permit or the person in charge, in writing of the reason for which the permit is subject to revocation; and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for hearing is filed with the Director by the holder of the permit within such ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final. No part of a permit fee shall be refunded upon revocation thereof pursuant to this Section.

c) Service of Notice

A notice provided for in this Article is properly served when it is delivered to the holder of the permit or license or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit or license, regardless if the letter is or is not received by the holder of the permit or license.

Section 22. HEARINGS.

Hearings provided for in this Article shall be conducted by the Director at a time and place designated by him. Based upon the evidence of such hearing, the Director shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing.

Section 23. DISPOSITION OF DOGS OR OTHER ANIMALS AFTER REVOCATION.

Any person whose permit or license is revoked shall, within ten (10) days after revocation:

- 1) Return any dog or other animals, kept, or harbored by such person or others to their owners;
- 2) Relocate dogs or other animals to areas or places outside the corporate boundaries of the City; or
- 3) Release dogs or other animals to the Director and pay all cost incurred in the handling of said dogs or other animals such as transporting, housing, feeding, and disposal.

Section 24. APPLICATION AFTER REVOCATION.

Whenever a revocation has become final, the person whose permit or license has been revoked may not apply for or receive a new permit or license for a period of one (1) year from the date of the revocation. One (1) year after the date of revocation a person may re-apply for a permit or license and shall include with the application, verification that all reasons and conditions which led to the revocation have been corrected. Any person re-applying for a permit under this Section shall be subject to all requirements as stated in this Article. Any person having a permit or license revoked for a second time shall not be eligible for a new permit or license.

Section 25. DUTIES OF DIRECTOR.

Under authority of the City Council, the Director shall enforce any and all regulations of this Article in any and all parts of the City as is necessary to control the dog and other animal population and protect the health and safety of the citizens of the City. In furtherance thereof, the Director shall:

(a) Collect Fees

Collect all fees set by the City Council necessary to recover the costs incurred in meeting the requirements of this Article. The Director may

further collect for the creditor all unpaid cost, fees, or charges incurred by the dog or other animal while in violation of this Article.

(b) Make Inspections

Make all inspections required in this Article.

(c) To Take Up and Impound

Take up and impound, or cause to be taken up or impound, in the manner authorized by law, all dogs or other animals in the City which are in violation of this Article. The director may trap, capture, shoot, tranquilize, or use any other means or methods that may be deemed necessary and prudent to perform the duties imposed herein. Any person who has control or possession of any dog or other animal which is in violation of this Article shall, upon demand, turn over such dog or other animal to the Director.

Section 26. DIRECTOR MAY PROMULGATE RULES.

The Director shall have the power, with the approval of the City Council, to prescribe and promulgate such rules and regulations, not inconsistent with any law of the State or this Article, as may be deemed necessary to protect the health and safety of the people and to effectively perform the duties imposed herein.

Section 27. ENFORCEMENT.

The provisions of this Article shall be enforced by the Director or his delegated representative. It shall be a violation of this Article to interfere with the Director or his delegated representatives in the performance of their duties.

Section 28. APPEALS FROM DECISION OF DIRECTOR.

Whenever in this Article provision is made for a hearing before the Director, any person aggrieved by the decision of the Director following such hearing may appeal same to the City Council by giving notice thereof, served upon the City Secretary, within seventy-two (72) hours following the date the decision was so rendered. The City Council shall hold a hearing on the appeal within thirty (30) days following notice of appeal. Any notice of appeal shall be served in writing, stating the interest of the person appealing, the reason for the appeal, and a general description of the factual grounds upon which the appellant contends the decision of the Director was incorrect.

Section 29. ISSUANCE OF CITATIONS.

In addition to or in lieu of impounding a dog or other animal which is in violation or has violated any Section or Subsection of this Article, the Director or any peace officer may issue to the owner of such dog or other animal or holder of such license or permit a notice of violation and shall file a complaint relating thereto with the proper court of competent jurisdiction of the City. Upon conviction of a violation of this Article, the owner shall be punished as provided in Sec. 30 of this Article.

Section 30. PENALTY.

Except as otherwise provided in this Article, any person who shall intentionally, knowingly, recklessly, or with criminal negligence commit any act prohibited or made or declared to be unlawful by this Article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed two thousand dollars (\$2000). Each day any such violation shall continue to exist shall constitute a separate offense.

Section 31. 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 circumstance 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 declared to be invalid or unconstitutional; and the City Council of The City of Simonton, 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, or whether there be one or more parts.

Section 32. REPEALER.

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

Section 33. EFFECTIVE DATE.

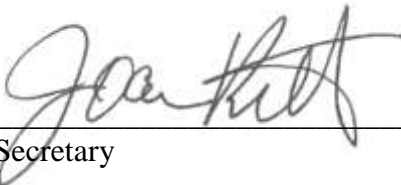
This Ordinance shall be in full force and effect from and after its passage and its publication as provided by law.

PASSED, APPROVED, AND ADOPTED this 15th Day of April 2008.



Mayor, City of Simonton

ATTEST:



City Secretary