

**IN THE COMMISSIONERS COURT
VICTORIA COUNTY, TEXAS**

**ORDER CONCERNING REGULATIONS OF VICTORIA COUNTY, TEXAS
FOR CONTROL OF ANIMALS AND CONTROL OF RABIES; PROVIDING FOR THE
REGULATION OF DANGEROUS DOGS; PROVIDING PENALTIES; PROVIDING
FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

PREAMBLE

ON THIS, the 30 thday of Ju ly , 2012, the Commissioners' Cou rt of Victoria County, Texas, in a duly noticed meeting of said Comt, the following members thereof being present, namely:

DONALD R. POZZI, County Judge,
KENNY SPANN, Commissioner, Precinct I,
KEVIN M. JANAK, Commissioner, Precinct 2,
GARY BURNS, Commissioner, Precinct 3,
CLINT IVES, Commissioner, Precinct 4,

The following proceedi ngs, among others, were had, to wit:

WHEREAS, it is the desire of this Comt to continue to provide the following regulations for iabies control in the animal population, for repmtng of humall bites from animals susceptible to rabies, for quarantine proced ures for animals, for animals running at large, for impounded animals for safety provisions, and for funding and disposition of monies collected by the Victoria City-County Health Department Animal Control Division; and

WHEREAS an original Order Concerning Regulations of Victoria County , Texas for Control of Animals and Control of Rabies adopting said regulations was adopted by the Commissioners' Court of Victoria County, Texas on the 14th day of April, 1980; and

WHEREAS amendments to the original Order adopting said regulations were approved by the Commissioners' Court of Victoria County, Texas on subsequent dates, including the 18th day of July, 1983, the 14th day of August, 2000, the 22nd day of September, 2003, and the 11th day of April, 2011; and

WHEREAS the Commissioners Court of Victoria County, Texas finds that a substantial need exists to enact an Order regard ing dangerous dogs within Victoria County, Texas; and

WHEREAS the Commissioners Court of Victoria County, Texas is authorized to enact policies regarding dangerous dogs pursuant to Chapter 822 of the Texas Health and Safety Code; and

WHEREAS it is the intent of the Commissioners Comt to enact this Order relating to dangerous dogs in the County; and

WHEREAS on April 11, 2011, the Commissioners Court adopted a consolidated, updated Order Concerning Regulations of Victoria County, Texas for Control of Animals and Control of Rabies ("April 11, 2011 Order"); and

WHEREAS the Commissioners Court now intends to adopt this Order for the Regulation of Dangerous Dogs, and intends the provisions of this Order to supersede the provisions of Section 6 of the April 11, 2011 Order that address "Vicious Animals," as that term is defined in the April 11, 2011 Order; and

WHEREAS, it would be prudent to have on file a consolidated, updated Order for the purpose of quick reference by Victoria County citizens, Victoria County Health Department Animal Control Division employees, Victoria County officials, and other persons or agencies in need of such a document; and

WHEREAS, occasional punctuation and numerical corrections and other conforming changes were made to the April 11, 2011 Order, without changing the original intent of said Order, except for the provisions of this Order addressing Dangerous Dogs which now supersede the provisions of the April 11, 2011 Order that addressed Vicious Animals;

THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF VICTORIA COUNTY, TEXAS, THAT:

ORDER OF THE COMMISSIONERS COURT

Section 1. "Definitions"

As used in this Order the following words and phrases shall have the meanings herein ascribed to them, unless the content of their usage clearly indicates another meaning:

- (a) "*Bodily Injury*" means physical pain, illness, or any impairment of physical condition that results from a bite or attack by a dog.
- (b) "*Cat*" shall mean any live or dead cat (e.g., *felis catus*).
- (c) "*Dangerous dog*" means a dog that:
 - (1) has been determined to be a dangerous dog, as provided in section 822.043 of the Texas Health and Safety Code, as amended;
 - (2) 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;
 - (3) 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.

- (d) "*Currently Vaccinated*" means vaccinated and satisfying the following criteria:
- (1) The animal must have been at least three (3) months of age at the time of vaccination.
 - (2) At least thirty (30) days have elapsed since the initial vaccination.
 - (3) In reference to the first booster vaccination, not more than twelve (12) months have elapsed since the initial vaccination.
 - (4) In reference to subsequent booster vaccinations, not more than thirty six (36) months have elapsed since the most recent vaccination.
- (e) "*Director*" means the director of the Victoria City-County Health Department, or an authorized representative of such Director.
- (f) "*Dog*" means a domesticated animal that is a member of the canine family, live or dead.
- (g) "*Domestic Animal*" shall include all species of animals commonly and universally accepted as being domesticated.
- (h) "*Hearing officer*" shall mean the director or any person he may designate to conduct a hearing under this Order, provided such person shall not have participated in any investigation of the facts regarding the alleged dangerous dog or be in the chain of command of any such person.
- (i) "*Harboring*" means the act of keeping and caring for an animal or of providing a premise to which the animal returns for food, shelter, or care for a period of ten (10) days.
- (j) "*Local Health Authority*" means the Director of the Victoria City-County Health Department, or an authorized representative of such Director. This includes a person designated to receive report of animal bites, investigate bite reports, insure quarantine or possible rabid animals and otherwise carry out provisions of the Texas law pertaining to control and eradication of rabies.
- (k) "*Owner*" means a person, firm or corporation who:
- (1) owns or has custody or control of a dog;
 - (2) has right or property interest in an animal;
 - (3) harbors an animal; or
 - (4) allows an animal to remain about his premises for a period of ten (10) days.
- (l) "*Per Animal*" shall include dogs, cats, rabbits, rodents, birds, reptiles, and any other species of animal which is sold or retained as a household pet but shall not include skunks, nonhuman primates and any other species of wild, exotic or carnivorous animal that may be further restricted in this law.
- (m) "*Running at Large*" shall mean not completely confined to a building, wall, or fence of

sufficient strength or construction to restrain the animal, except when such an animal is either on leash or held in the hands of the owner or keeper, or under direct supervision of the owner within the limits of the owner's private property. An animal within an automobile or other vehicle of its owner, shall not be deemed "running at large".

(n) "*Secure enclosure*" means a fenced area or structure that is:

- (1) At least 6 feet in height;
- (2) Locked;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Capable of preventing the escape or release of a dangerous dog; and
- (5) Clearly marked as containing a dangerous dog.

(o) "*Serious bodily injury*" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

(p) "*Stray Animal*" means any animal for which there is no identifiable owner or harborer.

(q) "*Unprovoked*" means action by a dog that is not:

- (1) In response to being tormented, abused, or assaulted by any person;
- (2) In response to pain or injury; or
- (3) In protection of itself or its food, kennel, or nursing offspring.

(r) "*Vaccinated*" means properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed by the State of Texas.

Section 2. -Rabies Control

2.1 Vaccinations

The owner of each dog or cat shall have the dog or cat vaccinated against rabies by the time it is four (4) months of age, vaccinated with a booster within the twelve (12) month interval following the initial vaccination, and revaccinated at regular intervals not less than once every thirty six (36) months thereafter. Any person moving into the County from a location outside of the County shall comply with this Order within ten (10) days after having moved into the County. If the dog or cat has inflicted a bite on any person, or another animal, within the last ten (10) days, the owner of said dog or cat shall report such fact to the veterinarian, and no rabies vaccine shall be administered until after the ten (10) day observation period.

2.2 Certificate of Vaccination

Upon vaccination, the veterinarian shall execute and furnish the owner of the dog or cat as evidence thereof, a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. Such certificate shall contain the following information:

- (a) The name, address, and telephone number of the owner of the vaccinated dog **or cat**;
- (b) The date of vaccination;
- (c) The type of rabies vaccine used;
- (d) The year and number of rabies tag; and
- (d) The breed, age, color, and sex of the vaccinated dog or cat.

2.3 Rabies Tags

Concurrent with the issuance and delivery of the certificate of vaccination referred to in Section 2.2, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times.

2.4 Duplicate Tags

In the event of loss or destruction of the original tag provided in Section 2.3, the owner or the dog shall obtain a duplicate tag. Vaccination certificates and tags shall be valid only for the animals for which it was originally issued.

2.5 Proof

It shall be unlawful for a person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Order.

2.6 Harboring Unvaccinated Animals

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

2.7 Animals Exposed to Rabies

Any person having knowledge of the existence of any animal known to have been, or suspected of being, exposed to rabies must immediately report such knowledge to the Local Health Authority, giving any information which may be required. For any animal known to have been, or suspected of being, exposed to rabies, the following rules must apply:

- (a) Animals having a current vaccination must be revaccinated immediately and confined according to the method prescribed by the Local Health Authority for a period of not less than ninety (90) days.
- (b) Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, he may, at his expense and in a manner prescribed by the Local Health Authority, confine said animal. Such animal must be vaccinated immediately following exposure and quarantined for not less than six (6) months. A revaccination shall be done one month prior to release from quarantine.

2.8 Enforcement

The County Sheriff, his Deputy, or an Animal Control Officer may issue a summons to the owner of an animal found to be in violation of any provisions of this Section. Said summons shall contain a written promise by such owner to appear in Justice Court within ten (10) days of the date of issuance to answer the charge made in the summons. Violations of any provision of this section shall be a Class C misdemeanor punishable with a fine of \$100.00.

Section 3. - Reporting Human Bites from Animals Susceptible to Rabies: Related Procedures

3.1 Reporting

Any person having knowledge of an animal bite to a human will report the incident to the Local Health Authority as soon as possible, but not later than twenty four (24) hours from the time of the incident.

3.2 Quarantine

The owner of the biting animal will place that animal in quarantine as prescribed in Section 4, under the supervision of the Local Health Authority.

3.3 Investigation

The Local Health Authority will investigate each biting incident, utilizing standardized reporting forms provided by the Texas Department of State Health Services.

3.4 Exclusions.

Human bites from rodents, rabbits, birds and reptiles are excluded from the reporting requirements of this section.

Section 4, - Quarantine Procedures for Animals

4.1 Dogs or Cats

When a dog or cat that has bitten a human has been identified, the owner will be required to produce the animal for ten (10) days confinement at the owner's expense. Refusal to produce said dog or cat constitutes a violation of this section and each day of such refusal constitutes a separate and individual violation. The ten (10) day observation period will begin on the day of the bit incident. The animal must be placed in the animal control facilities or a veterinary hospital approved for that purpose by the Local Health Authority. However, the owner of the animal may request permission from the Local Health Authority for home quarantine if the following criteria can be met:

- (a) Secure facilities must be available at the home of the animal's owner, and must be approved by the Local Health Authority.
- (b) The animal is currently vaccinated against rabies.
- (c) The Local Health Authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the Local Health Authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.
- (d) The animal was not in violation of any laws at the time of the bite.
- (e) If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

4.2 Wild Animals

No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely destroyed in such a manner that the brain is not mutilated. The brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

Section 5. –Running at Large

5.1 Restraining

Whenever the Local Health Authority shall determine that it is in the best interest of the safety of the public to do so, he shall issue a proclamation declaring an emergency and prohibiting dogs to run at large for a period of ninety (90) days. And such proclamation shall be published in the newspapers of this County for one publication. During the period of ninety (90) days subsequent to any such publication, it shall be unlawful for any owner of any dog to allow such dog to run at large. If at the end of ninety (90) days, at the discretion of the Local Health Authority, the situation still exists, said proclamation may be reinstated by the Local Health Authority for an additional ninety (90) days ad infinitum in the above described manner until it is determined by the Local Health Authority that such an emergency no longer exists.

5.2 Nuisance

It shall be unlawful for any owner to harbor any dog, cat, or other pet animal which by a long continued noise, cry or other activity shall disturb the peace, comfort, sensibilities and/or property of the inhabitants of the neighborhood. Such disturbance is hereby declared to be a public nuisance and a violation of this Order.

5.3 Abandoning Animals

It is hereby prohibited and shall be unlawful for any person to willfully abandon any animal, or to withhold food or water from any animal such that its health is endangered or it is caused to suffer unduly.

5.4 Guard Dogs

It shall be unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property, unless the dog is physically confined to a specific area, or is under complete and absolute control. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high.

5.5 Enforcement

A violation of Section 5 shall be considered a Class C misdemeanor punishable by a fine of up to \$135.00 upon conviction. The County Sheriff, his Deputy, or an Animal Control Officer may issue a summons to a person in violation of Section 5. Said summons shall contain a written promise by the owner to appear in Justice Court within ten (10) days of the date of issuance to answer the charge made in the summons.

5.6 Public Safety

Any dangerous dog found running at large may be destroyed by any peace officer in the interest of public safety.

Section 6. - Impounded Animals

6.1 Impoundment

Animals owned or harbored in violation of this Order or any other Law of the State of Texas may be taken into custody by the County Sheriff, his Deputy, or an Animal Control Officer, and impounded. Stray animals shall be similarly impounded.

6.2 Animal Shelter

A suitable animal shelter shall be provided for the purpose of boarding and caring for any animal impounded under the provisions of this Order. Such shelter shall be constructed in accordance with recommendations from the Texas Department of State Health Services. In lieu of constructing a shelter, the County may contract with any licensed veterinarian to provide this service at a fee mutually agreed upon and having a suitable facility within the County that has been approved by the Texas Department of State Health Services.

6.3 Removal of Animals from Animal Shelter

It shall be unlawful for any person to remove any impounded animal from the animal shelter without the consent of the Local Health Authority or other impounding official or agency.

6.4 Removal of Biting Dogs and Cats from Confinement

The impoundment of dogs and cats that have inflicted human bites shall be for a period of ten (10) days for observation and shall not be terminated until consent from the proper officer or agency is secured.

6.5 Disposition of Impounded Animals

As soon as practicable after impoundment, if the owner of the impounded animal is known, immediate notice shall be given to him. Any impounded animal may be redeemed upon payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the Commissioners' Court. If such animal is not redeemed within three (3) days, it shall be deemed abandoned and may be placed for adoption subject to payment of the rabies vaccination charges, and such other costs as set by the Commissioners' Court, or the impoundment officer may humanely euthanize said animal.

6.6 Disposition of Impounded Animals Held on Complaint

If a complaint has been filed in a Justice Court of the County of Victoria against the owner of an impounded animal for violation of this Order, the animal shall not be released except on the order of the Court which may also direct the owner to pay any penalties for violation of this Order in addition to all impoundment fees. Surrender of an animal by the owner thereof to the peace officer does not relieve or render the owner immune from the decision of the Court, nor the fees and fines which may result from a violation or violations of this Order.

6.7 Disposition of Diseased Animals

Any animal taken into custody by an Animal Control Officer, except those animals which have inflicted human bites during the preceding ten (10) days, and that are visibly affected with any sign of communicable disease other than rabies, which are being held at the impounding facility, may instead of being impounded, be humanely destroyed, provided:

- (a) That any animal which has inflicted any human or animal bite during the preceding ten (10) days have its head removed by the Animal Control Officer and submitted to the laboratory for rabies examination.
- (b) Any animal exhibiting symptoms of rabies must be handled in a manner prescribed by the Local Health Authority.

~~Section 7, Dangerous Dogs~~

~~7.1 Impoundment order; surrender~~

~~(a) Upon receipt of a sworn, written complaint by any person, in a form approved by the director, that any dog situated within the County may constitute a dangerous dog, the director shall cause an investigation to be conducted. If upon investigation, the director reasonably believes that grounds exist to declare the dog a dangerous dog, he shall issue a written order, which includes the factual basis for the order, that the dog be impounded at the County's animal impoundment facilities at the licensee's or owner's expense pending a hearing to determine whether the dog is dangerous as defined in this Order.~~

~~(b) It shall be unlawful for any person to refuse to surrender to any County officer or employee who has presented a true copy of such order to the person any dog for which an impoundment order has been issued.~~

~~7.2 Determination hearing~~

~~(a) The director shall cause written notice to be given to the owner that a hearing will be conducted to determine whether the animal is a dangerous dog. Such notice shall include the following:~~

~~(1) The place where the hearing will be conducted.~~

~~(2) The date and time of the hearing, which shall be not later than the tenth day after the impoundment of the animal; provided that the hearing officer may continue the hearing upon the written request of the owner or upon the written certification of the attending physician of a person injured by the dog that the injured person is not medically able to attend the hearing, or in the event that it is necessary to give notice of the hearing by newspaper publication.~~

~~(3) That the owner may appear at the hearing and present evidence, cross-examine witnesses and be represented by legal counsel.~~

~~(4) That the dog may be ordered euthanized if the hearing officer finds that it is a dangerous dog.~~

~~(5) That the owner may request a probable cause hearing pursuant to section 6 of this Order.~~

~~(b) The notice may be given by personal delivery or sent by certified mail, return receipt requested, to the last known address of the licensee or owner. If the director is unable to effect delivery of notice by personal delivery or by mail, he shall cause the notice to be published one time in a newspaper of general circulation and to be posted in a conspicuous public place at the County's animal impoundment facility, each of which acts shall be done at least seven business days prior to the date of the hearing.~~

~~(c) The hearing shall be conducted by the hearing officer under rules consistent with the nature of the proceeding. The burden of proof shall be upon the County to establish, by a preponderance of the evidence presented at the hearing, that the dog is a dangerous dog. At the conclusion of the hearing, the hearing officer shall enter a written order with factual findings as to whether the dog is a dangerous dog. At the conclusion of the hearing, the hearing officer may:~~

~~(1) Determine that a dog is not dangerous and, if the dog is impounded, waive any impoundment fees inculTCd and release the dog to its licensee or owner, provided that the dog may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Order;~~

~~(2) Determine that a dog is dangerous and order "the owner to comply with the requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and, if the dog is impounded, release the dog to its owner in accordance with subsection (d) of this section, provided that the dog may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Order; m-~~

~~(3) Determine that a dog has killed or caused serious bodily injury to a person and order the dog to be seized and humanely euthanized.~~

~~(d) If a dog is determined to be dangerous, the director shall notify the owner, either in person or by certified mail, return receipt requested:~~

~~(1) That the dog is dangerous;~~

~~(2) Whether the dog has been ordered to be humanely euthanized;~~

~~(3) If the dog has not been ordered to be humanely euthanized, what the owner must do to comply with requirements for ownership of a dangerous dog and to reclaim the dog, if impounded; and~~

~~(4) That the owner has a right to appeal a determination of dangerousness or an order to euthanize.~~

~~(e) An impounded dog determined by the hearing officer to be dangerous shall remain impounded or confined at a location approved by the director and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended from time to time. If all impoundment fees have not been paid and all requirements have not been met within 30 days after a final determination that a dog is dangerous, the hearing officer may cause the dog to be humanely euthanized.~~

~~7.3 Requirements for owner of a dangerous dog~~

~~(a) Not later than the 30th day after the date an owner learns that he is the owner of a dangerous dog that is not to be humanely euthanized, the owner shall:~~

~~(1) Comply at all times with the requirements set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code;~~

~~(2) Permit the Local Health Authority to implant a microchip in the dog which will identify it as a dangerous dog;~~

~~(3) Affix a red, County issued "dangerous dog" tag to the dog's collar that must be worn by the dog at all times and renewed annually;~~

~~(4) Restrain the dangerous dog at all times on a leash, no longer than 6 feet in length, in the immediate control of a person at any time the dog is not in a secure enclosure;~~

~~(5) Restrain the dangerous dog at all times with a muzzle at any time the dog is not in a secure enclosure;~~

~~(6) Confine the dog in a secure enclosure, except as provided in the preceding item; and~~

~~(7) Obtain liability insurance coverage in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage to the Local Health Authority.~~

~~(b) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the Local Health Authority not later than the 30th day after the owner learns that the dog is dangerous.~~

~~(c) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:~~

~~(1) the owner knows of an attack described in Section 1(c) of this Order;~~

~~(2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under Section 822.0423 of the Texas Health and Safety Code, as amended; or~~

~~(3) the owner is informed by the Local Health Authority that the dog is a dangerous dog~~

~~under this Order or Section 822.0421 of the Texas Health and Safety Code, as amended.~~

~~7.4 Seizure and impoundment of a dangerous dog~~

~~{a) The director shall seize and impound or order seizure and impoundment, at the owner's expense, of any dog previously determined to be dangerous if:~~

~~{1) The owner violates any provision of this Order or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or~~

~~{2) The dog causes bodily injury to any person.~~

~~{b) If a previously determined dangerous dog has been seized and impounded under this section, the hearing officer shall conduct a hearing to determine if the dog should be returned to the owner or humanely euthanized. The hearing must be conducted within eight business days after the date of seizure, and the hearing officer shall provide written notice of the hearing either in person or by certified mail, return receipt requested, to the licensee or owner. In no event shall the hearing be conducted less than seven business days after the notice has been mailed or delivered to the licensee or owner.~~

~~{c) At the conclusion of a hearing required under this section, the hearing officer may order that the dog either be returned to the owner in accordance with subsection (d) of this section or be humanely euthanized.~~

~~{d) A dangerous dog seized and impounded under this section shall not be returned to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. ^u If all impoundment fees have not been paid and all requirements have not been met within ten business days after the hearing officer issues the order to return the dog to the licensee or owner, the hearing officer may cause the dog to be humanely euthanized.~~

~~7.5 Probable cause hearing~~

~~Any owner whose dog has been impounded may, at any time prior to the hearing scheduled pursuant to section 3 or section 5 of this Order, request an informal probable cause hearing by written request delivered to the office of the director. The hearing officer shall conduct the hearing within 48 hours after receipt of the request, Saturdays, Sundays and County holidays excepted. The hearing shall be conducted informally, and the hearing officer may consider County investigative reports, medical records, and affidavits, as well as any testimony or documentary evidence offered by the licensee or owner. If the hearing officer finds that probable cause does not exist to detain the dog for a hearing under section 3 of this Order, he shall cause the impoundment order to be withdrawn. If the impoundment order is withdrawn, the animal shall be forthwith released, provided that it may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Order.~~

~~7.6 Unlicensed dogs, rabies quarantine~~

~~(a) The provisions of this Section shall not be construed to require the issuance of an impoundment order or the conduct of a hearing for the impoundment or euthanasia of any dog that is found to be running at large in violation of County ordinances. In the event that any dog impounded for such cause is claimed for redemption, the director may, if he has reason to believe that it is a dangerous dog, issue notice of a hearing pursuant to subsection 7.3 of this Order to the person claiming the dog and continue to hold the dog unless and until it is authorized to be released pursuant to subsection 7.3 or 7.5 of this Order.~~

~~(b) The provisions of this Section shall not be construed to require the issuance of an impoundment order for the impoundment of any dog for rabies quarantine pursuant to applicable provisions of the Order or state law. In the event that a dog is already impounded in the County's facilities for such reason, and the director determines that it may be a dangerous dog, he may issue a notice of hearing under subsection 7.3 or 7.5 of this Order and continue to hold the dog unless and until it is authorized to be released pursuant to subsection 7.3 or 7.5 of this Order.~~

~~7.7 Appeal from a determination as a dangerous dog~~

~~If the hearing officer determines a dog is a dangerous dog under subsection 7.3 of this Order, that decision is final unless the owner files a written appeal with the County Court at Law not later than the 15th day after the date the owner received notice that the dog is dangerous. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the director's determination of dangerousness.~~

~~7.8 Appeal from an order to euthanize~~

~~If the hearing officer orders a dangerous dog to be humanely euthanized under subsection 7.3 or subsection 7.5 of this Order, that decision is final unless the owner files a written appeal with the County Court at Law within five business days after receiving notice of the order to euthanize. If an appeal is timely filed, the director shall suspend the order to euthanize pending final determination of the court. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the director's order to euthanize.~~

~~7.9 Dangerous dog owned or harbored by minor~~

~~If the owner of a dangerous dog is a minor, the parent or guardian of the minor shall be liable for all injuries and property damage sustained by any person in an unprovoked attack by the dog.~~

~~7.10 Violations; defenses~~

~~(a) A person commits an offense if he violates, or fails to perform an act required by, a provision of this Section or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. A person commits a separate offense each day or part of a day during which a violation is committed, permitted, or continued.~~

~~(b) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily~~

~~injury to the other person;~~

~~(c) An offense under this Section is a Class C misdemeanor.~~

~~(d) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed.~~

~~(e) It is a defense to prosecution under this Order that:~~

~~(i) the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position; or~~

~~(ii) the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or~~

~~(iii) the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Texas Occupations Code.~~

~~7.11 Dangerous dog database~~

~~The Local Health Authority shall maintain a detailed database of all dogs deemed to be dangerous. The database shall include, but not be limited to, information such as the licensee's or owner's name, address, phone number, the dangerous dog case number, the assigned microchip number, and all identifying information regarding the dog.~~

Section 8. -Funding -Disposal of Monies Collected

8.1 Funding

Funds shall be set aside by the Commissioners' Court of Victoria County, Texas, for the purposes of salaries, equipment and supplies necessary to the implementation of this Order. Annually, the Victoria City-County Health Department Animal Control Division will submit a proposed budget to the Commissioners' Court for approval and/or revision.

8.2 Disposition of Monies Collected

All monies collected pursuant to the provisions of this Order shall go into the general fund of the Treasury of Victoria County, Texas, and may be used by the Commissioners' Court to partially defray the expense of implementing this Order.

Section 9. -Miscellaneous Provisions

9.1 Interference with the Local Health Authority or his Authorized Agents

It shall be unlawful for any person to interfere with, molest, hinder, or prevent the Local Health Authority or his authorized representatives in the discharge of their duties as herein prescribed, or to violate any of the provisions of this Order.

9.2 Penalty for Violation

Any person who violates any of the provisions of this Order shall be guilty of a Class-C misdemeanor.

9.3 Severance Clause

If any section, subsection, sentence, clause or phrase of this Order is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Order.

9.4. Safety Clause

The Commissioners' Court of Victoria County hereby finds, determines, and declares that this Order is necessary for the immediate preservation of the public peace, health, and safety.

9.5 Repealer

All other Orders and parts of the Orders in conflict herewith are hereby repealed.

9.6 Municipal Ordinances to Supersede

The promulgation and establishment of these regulations by the Victoria County Commissioners' Court shall not prevent or jeopardize a corporate municipality within the County from establishing any rules and regulations to prevent the introduction and spread of rabies and the control of animals within their corporate limits, and such ordinances established by said corporate municipalities shall supersede the County Order within the municipality so that dual enforcement will not occur.

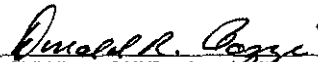
9.7 Effective Date


This act shall take and be in effect on and after the 30TH day of JULY 2012.


9.8 Certified Copies

A certified copy of this Order shall be delivered to the County Treasurer and County Auditor of Victoria County, Texas, for their information and observance.

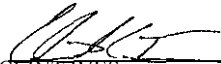
PASSED and APPROVED on the 30th day of July, 2012


DONALD POZZI, Victoria County Judge



KENNY SPANN,
Commissioner, Precinct 1


KEVIN M. JANAK,
Commissioner, Precinct 2

Commissioner, Precinct 3


CLINT FIVES,
Commissioner, Precinct 4

Attest:


ROBERT CORTEZ, County Clerk



Following is the update for section 7 that has a strike through it.

IN THE COMMISSIONERS COURT
VICTORIA COUNTY, TEXAS

**AN ORDER PROVIDING FOR REVISED REGULATION OF DANGEROUS DOGS IN
VICTORIA COUNTY, TEXAS; PROVIDING PENALTIES; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS the Commissioners Court of Victoria County, Texas finds that a substantial need exists to revise the previous Order regarding dangerous dogs within Victoria County, Texas; and

WHEREAS the Commissioners Court of Victoria County, Texas is authorized to enact policies regarding dangerous dogs pursuant to Chapter 822 of the Texas Health and Safety Code; and

WHEREAS it is the intent of the Commissioners Court to enact this Order relating to dangerous dogs in the County; and

WHEREAS on July 30, 2012, the Commissioners Court adopted an Order Concerning the Regulation of Dangerous Dogs; Providing Penalties; Providing for Severability; and Providing an Effective Date; and

WHEREAS the Commissioners Court now intends to adopt this Order for the Revised Regulation of Dangerous Dogs, and intends the provisions of this Order to supersede the provisions of the July 30, 2012 Order that addresses "Dangerous Dogs," as that term is defined in this Order.

Pursuant to the authority granted by the Constitution and Chapter 822 et seq., Health and Safety Code of the State of Texas, BE IT ENACTED BY THE COMMISSIONERS COURT OF VICTORIA COUNTY, TEXAS:

ORDER OF THE COMMISSIONERS COURT

Section 1. - Definitions.

As used in this Order the following words and phrases shall have the meanings herein ascribed to them, unless the content of their usage clearly indicates another meaning:

(a) "*Animal control authority*" means the Director of the Victoria City-County Health Department, or an authorized representative of such Director.

(b) "*Bodily injury*" means physical pain, illness, or any impairment of physical condition that results from a bite or attack by a dog.

(c) "*Dangerous dog*" means a dog that:

(1) has been determined by a court to be a dangerous dog, as provided in section 822.043 of the Texas Health and Safety Code, as

amended;

(2) 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

(3) 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.

(d) "*Director*" means the director of the Victoria City-County Health Department, or an authorized representative of such Director.

(e) "*Dog*" means a domesticated animal that is a member of the canine family.

(f) "*Hearing officer*" shall mean the director or any person he may designate to conduct a hearing under this Order, provided such person shall not have participated in any investigation of the facts regarding the alleged dangerous dog or be in the chain of command of any such person.

(g) "*Owner*" means a person who owns or has custody or control of the dog.

(h) "*Secure enclosure*" means a fenced area or structure that is:

- (1) At least 6 feet in height;
- (2) Locked;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Capable of preventing the escape or release of a dangerous dog; and
- (5) Clearly marked as containing a dangerous dog.

(i) "*Serious bodily injury*" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

G) "*Unprovoked*" means action by a dog that is not:

- (1) In response to being tormented, abused, or assaulted by any person;
- (2) In response to pain or injury; or
- (3) In protection of itself or its food, kennel, or nursing offspring.

7.1.- Impoundment order; surrender.

The Victoria County Commissioners Court adopts Texas Health and Safety Code section 822.0422 as follows:

- (a) A person may report a dangerous dog situated within the county to a justice court. The owner of the dog shall deliver the dog to the animal control authority not later than the fifth day after the date on which the owner receives notice that the report has been filed. The authority may provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.
- (b) If the owner fails to deliver the dog as required by Subsection (a), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.
- (c) The court shall determine, after notice and hearing as provided in Section 3 whether the dog is a dangerous dog.
- (d) The court, after determining that the dog is a dangerous dog, may order the animal control authority to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog and the dog is returned to the owner or destroyed.
- (e) The owner shall pay a cost or fee assessed by the County related to the seizure, acceptance, impoundment, or destruction of the dog.

7.2. - Determination hearing.

- (a) The court, upon receiving a report of a dangerous dog situated within the county, shall set a time for a hearing to determine whether the dog is a dangerous dog. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered.
- (b) The court shall give written notice of the hearing to the owner of the dog and the person who made the complaint. Such notice shall include the following:
 - (1) The place where the hearing will be conducted.
 - (2) The date and time of the hearing, which shall be not later than the tenth day after the impoundment of the animal; provided that the hearing officer may continue the hearing upon the written request of the owner or upon the written certification of the attending physician of a person injured by the dog that the injured person is not medically able to attend the hearing, or in the event that it is necessary to give notice of the hearing by newspaper publication

(3) That the owner may appear at the hearing and present evidence, cross examine witnesses and be represented by legal counsel.

(4) That the dog may be ordered euthanized if the hearing officer finds that it is a dangerous dog.

(5) That the owner may request a probable cause hearing pursuant to section 6 of this Order.

(b) The notice may be given by personal delivery or sent by certified mail, return receipt requested, to the last known address of the licensee or owner. If the court is unable to effect delivery of notice by personal delivery or by mail, the court shall cause the notice to be published one time in a newspaper of general circulation and to be posted in a conspicuous public place at the County's animal impoundment facility, each of which acts shall be done at least seven business days prior to the date of the hearing.

(c) The hearing shall be conducted by the justice court under rules consistent with the nature of the proceeding. The burden of proof shall be upon the County to establish, by a preponderance of the evidence presented at the hearing, that the dog is, a dangerous dog. At the conclusion of the hearing, the court shall enter a written order with factual findings as to whether the dog is a dangerous dog. At the conclusion of the hearing, the hearing court may:

(1) Determine that a dog is not dangerous and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its licensee or owner, provided that the dog may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Order;

(2) Determine that a dog is dangerous and order the owner to comply with the requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and, if the dog is impounded, release the dog to its owner in accordance with subsection (d) of this section; or

(3) Determine that a dog has killed or caused serious bodily injury to a person and order the dog to be seized and humanely euthanized.

(d) If a dog is determined to be dangerous, the court shall notify the owner, either in person or by certified mail, return receipt requested:

(1) That the dog is dangerous;

(2) Whether the dog has been ordered to be humanely euthanized;

(3) If the dog has not been ordered to be humanely euthanized, what the owner must do to comply with requirements for ownership of a dangerous dog and to reclaim the dog, if impounded; and

(4) That the owner has a right to appeal a determination of dangerousness or an order to euthanize.

(e) An impounded dog determined by the court to be dangerous shall remain impounded or

confined at a location approved by the director and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended from time to time. If all impoundment fees have not been paid and all requirements have not been met within 30 days after a final determination that a dog is dangerous, the court may cause the dog to be humanely euthanized.

7.3 - Requirements for owner of a dangerous dog.

(a) Not later than the 30th day after the date a owner learns that he is the owner of a dangerous dog that is not to be humanely euthanized, the owner shall:

- (1) Comply at all times with the requirements set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code;
- (2) Permit the animal control authority to implant a microchip in the dog which will identify it as a dangerous dog;
- (3) Affix a red, County-issued "dangerous dog" tag to the dog's collar that must be worn by the dog at all times and renewed annually;
- (4) Restrain the dangerous dog at all times on a leash, no longer than 6 feet in length, in the immediate control of a person at any time the dog is not in a secure enclosure;
- (5) Restrain the dangerous dog at all times with a muzzle at any time the dog is not in a secure enclosure;
- (6) Confine the dog in a secure enclosure, except as provided in the preceding item; and
- (7) Obtain liability insurance coverage in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage to the animal control authority.

(b) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the animal control authority not later than the 30th day after the owner learns that the dog is dangerous.

(c) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

- (1) the owner knows of an attack described in Section 822.0423 of this Order;
- (2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under Section 822.0423 of the Texas Health and Safety Code, as amended; or
- (3) the owner is informed by the animal control authority that the dog is a dangerous dog under this Order or Section 822.0421 of the Texas Health and Safety Code, as amended.

7.4 - Seizure and impoundment of a dangerous dog

(a) The justice court shall order seizure and impoundment, at the owner's expense, of any dog previously determined to be dangerous if:

- (1) The owner violates any provision of this Order or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or
- (2) The dog causes bodily injury to any person.

(b) If a previously determined dangerous dog has been seized and impounded under this section, the justice court shall conduct a hearing to determine if the dog should be returned to the owner or humanely euthanized. The hearing must be conducted within eight business days after the date of seizure, and the court shall provide written notice of the hearing either in person or by certified mail, return receipt requested, to the licensee or owner. In no event shall the hearing be conducted less than seven business days after the notice has been mailed or delivered to the licensee or owner.

(c) At the conclusion of a hearing required under this section, the court may order that the dog either be returned to the owner in accordance with subsection (d) of this section or be humanely euthanized.

(d) A dangerous dog seized and impounded under this section shall not be returned to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Order and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. If all impoundment fees have not been paid and all requirements have not been met within ten business days after the hearing officer issues the order to return the dog to the licensee or owner, the hearing officer may cause the dog to be humanely euthanized.

7.5. - Unlicensed dogs, rabies quarantine.

(a) The provisions of this Order shall not be construed to require the issuance of an impoundment order or the conduct of a hearing for the impoundment or euthanasia of any dog that is found to be running at large in violation of County ordinances. In the event that any dog impounded for such cause is claimed for redemption, the director may, if he has reason to believe that it is a dangerous dog, issue notice of a hearing pursuant to section 3 of this Order to the person claiming the dog and continue to hold the dog unless and until it is authorized to be released pursuant to section 3 or 5 of this Order.

(b) The provisions of this Order shall not be construed to require the issuance of an impoundment order for the impoundment of any dog for rabies quarantine pursuant to applicable provisions of the Order or state law. In the event that a dog is already impounded in the County's facilities for such reason, and the director determines that it may be a dangerous dog, he may issue a notice of hearing under section 3 or 5 of this Order and continue to hold the dog unless and until it is authorized to be released pursuant to section 3 or 5 of this Order.

7.6. - Appeal from a determination as a dangerous dog.

If the justice court determines a dog is a dangerous dog under section 3 of this Order, that decision is final unless the owner files a written appeal with the County Court at Law not later than the 10th day after the date the owner received notice that the dog is dangerous. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the justice court's determination of dangerousness.

7.7. - Appeal from an order to euthanize.

If the justice court orders a dangerous dog to be humanely euthanized under section 3 or section 5 of this Order, that decision is final unless the owner files a written appeal with the County Court at Law within five business days after receiving notice of the order to euthanize. If an appeal is timely filed, the director shall suspend the order to euthanize pending final determination of the court. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the justice court's order to euthanize.

7.8. - Dangerous dog owned or harbored by minor.

If the owner of a dangerous dog is a minor, the parent or guardian of the minor shall be liable for all injuries and property damage sustained by any person or domestic animal in an unprovoked attack by the dog.

7.9 - Violations; defenses.

- (a) A person commits an offense if he violates, or fails to perform an act required by, a provision of this Order or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. A person commits a separate offense each day or part of a day during which a violation is committed, permitted, or continued.
- (b) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- (c) An offense under this Order is a Class C misdemeanor.
- (d) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed.
- (e) It is a defense to prosecution under this Order that:
 - (i) the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position; or
 - (ii) the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or

(iii) the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Texas Occupations Code.

7.10. - Dangerous dog database.

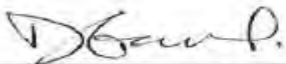
The animal control authority shall maintain a detailed database of all dogs deemed to be dangerous. The database shall include, but not be limited to, information such as the licensee's or owner's name, address, phone number, the dangerous dog case number, the assigned microchip number, and all identifying information regarding the dog.

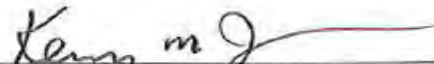
7.12. - Effective Date


This Order shall become effective from and after the date of its passage, and it is accordingly so ORDERED.


PASSED and APPROVED on the 17 day of August, 2015.


BEN ZELLER, Victoria County Judge


DANNY GARCIA,
Commissioner, Precinct 1


KEVIN M. JANAK,
Commissioner, Precinct 2


GARY BURNS,
Commissioner, Precinct 3


CLINT IVES,
Commissioner, Precinct 4

Attest:


HEIDI EASLEY, County Clerk

