ORDINANCE NO. 94A-2-2003

AN ORDINANCE REGULATING THE KEEPING OF DOGS IN THE INCORPORATED LIMITS OF THE CITY OF RIO VISTA, TEXAS; PROHIBITING DOGS FROM RUNNING AT LARGE IN THE CITY; PROHIBITING THE NUISANCE ASSOCIATED WITH DOGS; ESTABLISHING VICIOUS DOG PROCEDURES; PROVIDING FOR A PENALTY; REPEALER CLAUSE; SEVERABILITY CLAUSE; DECLARING AN EMERGENCY AND EFFECTIVE DATE THERE-OF;

WHEREAS, in order to protect the life, health and provide for the general welfare of the citizens of Rio Vista, Texas it is deemed necessary by the City of Rio Vista, Texas to set forth rules and regulations pertaining to ownership and control of dogs within said city:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIO VISTA, TEXAS:

SECTION 1 DEFINITIONS

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Dog - both male and female of any domesticated member of the canine species of animals, both male and female.

Nuisance - shall mean any thing or animal which is injurious to health or morals, or indecent or offensive to the senses or an obstruction of the free use of property so as to interfere with the comfortable enjoyment of life or property is declared a nuisance and as such shall be abated.

At Large - shall mean an animal that is not confined to the premises of its owner by a containment device of sufficient strength and / or height to prevent the animal from escaping therefrom, inside the house or other enclosure, or secured on said premises by a leash of sufficient strength to prevent the animal from escaping from said premises, and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall not be considered "at large" when held and controlled by some person by means of a leash or chain of proper strength and length to control the action of the animal, or while confined within a vehicle.

Owner - shall mean any person who has legal or equitable title to any animal, harbors or keeps any animal in his possession, or who permits any animal to remain on or about his/her premises.

Vicious Dogs - shall mean any animal that attacks, bites or injures a human being or

domesticated animal without adequate provocation. or which. because of temperament. conditioning or training. has a known propensity to attack. bite or injure human beings or domesticated animals.

Nuisance Animals - shall mean any animal or animals that unreasonably annoy humans. endanger the life or health of other animals or humans. or substantially interfere with the rights of citizens. other than their owners. to enjoyment of life or property. The term "public nuisance animal" shall mean and include. but is not limited to. any animal that:

a. is repeatedly found at large:

b. damages the property of anyone other than its owner:

c. molests. bites or intimidates pedestrians or passersby;

d. chases vehicles:

e. excessively makes disturbing noises. including. but not limited to. continued and repeated howling. barking. whining. or other utterances. causing unreasonable annoyance. disturbance. or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored:

f. causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored:

g. causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored: or

h. attacks other domestic animals.

SECTION 2 RUNNING AT LARGE PROHIBITED

Any person owning. possessing or keeping a dog or dogs within the City of Rio Vista. whether vaccinated or unvaccinated. licensed or unlicensed. shall confine such dog or dogs within an adequate fence or enclosure. or within a house. garage or other building. or shall keep such dog or dogs confined by leash or chain affixed to the dog's collar and attached to some stationary object adequate to prevent the dog or dogs from running at large.

SECTION 3 NUISANCE ANIMALS PROHIBITED

No person shall willfully or knowingly keep or harbor on his / her premises or elsewhere any animal which has been declared a nuisance by the Chief of Police.

The Chief of Police shall utilize the definition of "Nuisance Animal" as noted in this ordinance in making such determinations. It shall be the responsibility of the owner of an animal determined to be a nuisance. to remove that animal from the city limits.

SECTION 4 VICIOUS DOG – PROCEDURES AND HEARING

A. FILING OF AFFIDAVIT

The Rio Vista Police Department may receive a report concerning a dog which while straying has bitten or attacked a human being or a domesticated animal. A complainant may file with the Police Department a written sworn affidavit that must contain the following information:

1. Name. address and telephone numbers of the complainant and any other witnesses:

2. Date. time and location of the incident (s);

3. A complete description of the dog (breed. if known. color. size):

4. Name. address and telephone numbers of the owners. if known. or the premises where the dog is located:

5. A statement that the dog. while straying. bit or attacked a person or domesticated animal.

6. A statement that the dog has exhibited vicious propensities in its past conduct; and

7. Any other facts and circumstances relating to the incident.

B. SCHEDULING OF HEARING: NOTICE REQUIREMENTS: IMPOUNDMENT OF DOG

After a sworn affidavit is filed with the Police Department. the Chief of Police shall set a date. time and place for a hearing. The Chief of Police shall give notice of the hearing to the owner of the dog by personal service. or certified mail. return receipt requested. at least ten (10) days prior to the hearing date. The notice must include a copy of the sworn affidavit and a copy of this Ordinance. After the owner of the dog receives notice. the owner must immediately secure said dog until completion of the determination process.

C. HEARING DETERMINATIONS: FINDINGS FOR REMOVAL OF DOG

The Chief of Police shall determine at the hearing if the dog should be removed from the City for protection of the public health. safety and welfare of the

community. The Chief of Police shall receive testimony at the hearing concerning the incident under investigation. To order the removal of the dog for public safety and welfare. the Chief of police must find the following to be true:

1. The dog. while straying. attempted to bite or attack a person or domesticated animal;

2. The dog has exhibited vicious propensities in the past;

3. Positive identity of the dog has been made;

4. Removal of the dog is necessary to preserve the safety, health and welfare of the community.

D. CONSEQUENCES OF DOG OWNER'S NON-ATTENDANCE AT HEARING

If the Chief of Police orders immediate removal of the dog from the City and the owner is not present at the hearing. he/she shall notify the owner of the decision by personal service or certified mail. return receipt requested. If the dog is not ordered to be removed from the City. then the Police Department shall so inform the owner.

E. FAILURE TO RELEASE OR REMOVE DOG

A person commits an offense if he/she knowingly possesses and fails to secure a dog that has been charged by sworn affidavit as provided in this Section.

A person commits and offense if the person knowingly possesses and fails to remove from the corporate limits of the City. a dog determined to be vicious pursuant to this Section.

SECTION 5 PENALTIES

Any person who violates the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not in excess of One Thousand ($ 1.000) Dollars. Each violation of this Ordinance shall be deemed a separate offense and each day that the violation continues shall be deemed a separate offense. Nothing herein shall prevent the enforcement of this Ordinance by another means authorized by law and this Ordinance may be enforced by any or all means. and the choice of one remedy is not to the exclusion of any other remedy.

SECTION 6 REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative

of the other Ordinances regulating and governing the subject matter covered by this Ordinance.

SECTION 7 SEVERABILITY

That it is hereby declared that if any section. articles. subsections. paragraphs. sentences. clauses. and phrases of this Ordinance shall be declared void. ineffective. or unconstitutional by valid judgement or final decree of a court of competent jurisdiction. such voidness. ineffectiveness. or unconstitutionality shall not affect any of the remaining phrases. clauses. sentences. paragraphs. subsections. articles. or sections of this Ordinance since the same would have been enacted by the City Council without the incorporation herein of any such void. ineffective. or unconstitutional phrase. clause. sentence. paragraph. subsection. article or section.

SECTION 8 EMERGENCY AND EFFECTIVE DATE

It being for the public safety and welfare that this Ordinance be passed creates a public necessity and an emergency and thereby any rule requiring additional readings shall be hereby. waived and this reading shall now be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 11 day of February. 2003.

MAYOR

ATTEST:

City Secretary