MOTION WAS MADE BY Mr. Bob Hille **, SECONDED BY** Mr. Dale Evans **, THAT THE FOLLOWING ORDINANCE BE PASSED:**

ORDINANCE NO. 2005- 293

A ORDINANCE FOR THE CITY OF PANORAMA VILLAGE PROHIBITING ANIMALS FROM RUNNING AT LARGE ON PUBLIC OR PRIVATE PROPERTY; DEFINING TERMS; PROVIDING FOR THE REGISTRATION, LICENSING, AND VACCINATION OF ANIMALS, CREATING TEMPORARY IMPOUNDMENT, ANIMAL CONTROL OFFICER (S), THEIR DESIGNATED DEPUTIES; PROVIDING FOR THE WEARING OF COLLARS OR HARNESSES WITH REGISTRATION AND VACCINATION TAGS ATTACHED; PROVIDING FOR TERMS OF RELEASE FROM IMPOUNDMENT, NOTIFICATION OF IMPOUNDMENT; DEFINING THE RESPONSIBILITY FOR AND DISPOSITION OF FECES DEPOSITS; PROHIBITING A KENNEL AND LIMITING ANIMAL OWNERSHIP TO FOUR DOMESTIC ANIMALS; PROVIDING FOR INSPECTION OF ANIMAL REGISTRATION RECORDS; PROVIDING CRIMINAL PENALITIES UP TO $500 PER VIOLATON; REPEALING ALL PREVIOUS ORDINANCES IN CONFLICT HEREWITH; PROVIDING SAVINGS CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City Council of the City of Panorama Village believes that it is in best interest of the public and the citizens of the City of Panorama Village that both domestic and wild animals be controlled or prohibited within the City limits; and

WHEREAS, the City Council desires to pass a new animal control ordinance, thereby repealing City Ordinances No. 12, 79-85, 82-123, 85-150 and 94-214; and

WHEREAS, Section 826.013 of the Texas Health and Safety Code ("the Code") provides that the governing body of a municipality may adopt the provisions of the Rabies Control Act of 1981 (Texas Health and Safety Code, Chapter 826); and

WHEREAS, Section 826.015 of the Texas Health and Safety Code provides that a governing body of a municipality may adopt ordinances or rules that establish a local rabies control program in the municipality and set local standards that are compatible with and equal to or more stringent than (1) the ordinances or rules adopted by the county in which the municipality is located; and (2) the

program established by the chapter and the rules adopted by the Texas Board of Health; and

WHEREAS, Section 826.016 permits the governing body of a municipality to enter into contracts or agreements with public or private entities to carry out the activities required or authorized under Chapter 826 of the Code; and

WHEREAS, Section 826.017 of the Code permits the governing body of a municipality to designate an officer to act as the local rabies control authority as provided in the Code;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANORAMA VILLAGE THAT:

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Section I – Purpose

The City finds that existing ordinances are inadequate in their ability to assure public safety, limit the danger of rabies infections, control the running at large of cats and dogs, control of animal nuisances, provide the police and/or animal control personnel with the ability to identify animals owned by citizens, and provide for the disposition of impounded animals.

This Ordinance supercedes Ordinances 12, 79-85, 82-123, 85-150, and 94-214.

Section II – Definitions

For the purposes of this Ordinance, certain terms and words are hereby defined. Words used in the present tense include the future; the singular number include the plural, and the plural the singular; reference to the male gender includes the female and reference to any person or animal without specifying gender includes both male and female; the word "shall" is mandatory and not directory.

A "The Act" shall mean Rabies Control Act of 1981 (Texas Health & Safety Code, Chapter 826)

B "Animal" shall mean every living creature, male or female, domestic or wild except a member of the human race.

1) **"Domestic Animal" means all species of animals commonly accepted as domesticated by man so as to live and breed in a tame condition.**
2) **"Wild Animals" means any animals of a species that in their natural life are wild, including hybrids and animals, which, as a result of their natural or wild condition cannot be vaccinated effectively for rabies. These animals, however domesticated, shall include, but are not limited to:**

a) Alligators and crocodiles.
b) Bears (urisdae). All bears including grizzly bears, brown bears, black bears, etc.
c) Cat family (felidae). All except the commonly accepted domesticated cats, and including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger and wildcat.
d) Dog family (canidae). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, and dingo.
e) Porcupine (erethizontidae).
f) Primate (hominade). All sub-human primates.
g) Racoon (prosynnidae). All raccoons, including eastern raccoon, desert raccoon, ring-tailed cat.
h) Skunks.
i) Venomous fish and piranha.
j) Venomous snakes or lizards.
k) Weasel (mustelidae). All weasels including martens, wolverines, ferrets, badgers, otters, ermine, mink, and mongoose.
l) Armadillo.

C "Animal Control Officer" shall mean the person who has been designated and authorized by the Panorama Police Department to capture and confine animals found in violation of this Ordinance, or his lawfully delegated representative.

D "Animal Shelter" shall mean the facility operated by the "Montgomery County Humane Society" or related agency where animals are held under the authority of this Ordinance or State law.

E "At Large" shall mean any animal that is off the premises of its owner's real property and not restrained by a competent person.

F "Bite" shall mean any abrasion, scratch, puncture, tear or piercing of skin actually or suspected of being caused by an animal.

G "Cat" shall mean all domestic species or varieties of the felis catus, male or female, alive or dead.

H "Certificate" shall mean a certificate issued at the time of the vaccination of the dog or cat, and bearing thereon the signature of the vaccinator, the registration number, the mane, color, breed and sex of the dog or cat, the name and address of the owner, the date of the vaccination, or type of vaccine administered.

I "Competent Person" shall mean a human being that is capable of controlling and governing the animal in question and to whose commands the animal is obedient.

J 'Confined or Confinement" of an animal shall mean confined within a building or home, or within a fenced yard or premises, so that the animal cannot escape from said building, house or fenced yard or premises without human assistance.

K "City" shall mean the City of Panorama Village.

L "Currently Vaccinated" shall mean vaccinated and satisfying the following criteria:

1) The animal must have been at least four months of age at the time of vaccination;
2) At least thirty (30) days have lapsed since initial vaccination;
3) Not more than twelve (12) months have lapsed since the most recent vaccination for all cats and every three years after the first two annual vaccinations for all dogs.

M "Dangerous Dog" means any dog that has been deemed dangerous under the provisions of Chapter 822, Subchapter D. Texas Health and Safety Code.

N "Dog" shall mean all domesticated members of the canis familaris, male or female.

O "Exposed to Rabies" shall mean any animal whether it has been vaccinated for rabies or not, which has been bitten, been fighting with, or has consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.

P "Humane Manner" shall mean the care of an animal to include adequate heat, space, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

Q "Impound" shall mean the apprehending, catching, trapping, netting, tranquilizing, confining or if necessary, the destruction of any animal by the Animal Control Officer.

R "Impounding Facility" shall mean any premises designed by the City Council for the purpose of impounding and caring for all animals found in violation of this Ordinance.

S "Isolation" shall mean kept separated and protected from all other animals or humans.

T "Licensing Authority" shall mean an individual, company, or organization, or its lawfully delegated designee, designated and authorized by the Panorama Police Department to issue a certificate of vaccination in accordance with the provisions of Section IV herein.

U "Nuisance" shall describe an animal if it damages private property other than the owners; causes dangerous conditions; chases or molests; attacks or interferes with persons; causes excessive barking creating a public nuisance or deposits feces on any property, either public or private not owned by the owner.

V "Owner" shall mean any person who owns harbors, shelters, keeps, controls, manages, possesses, or has part interest in any animal.

1) The occupant of any premises on which an animal remains for a period of seven (7) days (or to which it customarily returns daily for a period of ten (10) days) is presumed to be harboring, sheltering, or keeping the aforementioned animal within this definition. Under no circumstances are the normal and ordinarily accepted definitions of the terms harboring, sheltering, or keeping, being limited to the words of the aforementioned presumption.

2) If a minor owns an animal subject to the provisions of this Section, the head of the household of which such minor owner is a member, shall be deemed to the be owner of such animal for the purpose of this Section and under this Section shall be responsible as the owner, whether or not such household head is himself a minor. If not a member of a household, such minor owner shall himself be directly subject to the provision of this Section.

W "Person" shall mean any individual, partnership, firm public or private corporation, association, trustee, or estate.

X "Restraint" shall mean that the animal shall be secured by a leash or lead, or confined within the real property limits of its owner.

Y "Vaccination" shall mean properly injected with a rabies vaccine licensed for use in that the species by the United States Department of Agriculture, which injection has been administered only by or under the direct supervision of a veterinarian who is licensed to practice in this state.

Z "Veterinarian" shall mean a Doctor of Veterinary Medicine who holds a valid license to practice his profession in the State of Texas.

AA "Kennel" shall mean any more than four (4) animals in confinement.

BB "Zoonotic Diseases" shall mean those diseases that may be transmitted from animals to man under normal condition.

Section III. Keeping of Non-domestic Animals Prohibited.

A The keeping of any horses, mules, ponies, jacks, jennets, cattle, hogs, goats, sheep, chickens, or fowl within the incorporated limits of the City is hereby declared to be a nuisance and it shall be unlawful for any person to keep or have horses, mules, ponies, jacks, jennets, cattle, hogs, goats, sheep, chickens, or fowl at any place within the City.

B Dangerous dogs and wild animals are prohibited within the City.

C All animals are subject to a one-time registration with the City Secretary. At that time proof of vaccination will be required a registration tag for each animal will be issued. It is the responsibility of the owner to place the tags on the animal's collar or harness, and further to maintain the efficacy of the vaccination.

D It shall be unlawful for anyone to maintain a kennel within the City limits. More than four (4) animals are considered as constituting a kennel. A temporary exemption, for one hundred and twenty days (120) for the disposing of newborn litters, is afforded to any owner, providing the litter was born by one of the owner's animals. Temporary exemptions for any other reason must be obtained through a request to City Council.

E Penalties for Violations: Any person, who shall violates any of the provisions of Section III, shall be deemed guilty of a class "C" misdemeanor and upon conviction thereof, shall be fined in a sum not to exceed $500.00 for each and every violation.

Section IV. Vaccinations and Registration

A No person(s) shall own, keep, or harbor dogs and cats over four (4) months of age within the City of Panorama Village, unless such animal is vaccinated against rabies. In addition, cats must be vaccinated against rabies every twelve (12) months thereafter. Dogs must be vaccinated every three years after the first two annual vaccinations.

B All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization" published by the National Association of State Public Health Veterinarians.

C A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag provided by the veterinarian to be

permanently attached to a collar or harness worn at all times when the animal is off the premises of the owner.

D All dogs and cats must be registered with the City one time and receive a tag designating registration and ownership. Breed, sex, and name are part of the registration requirement. There is a one-time fee of $4.00 per animal for registration. The City requires re-registration when rabies shots are upgraded, but there will be no charge at that time.

E Penalty and Violations: A person commits an offense if he fails or refuses to have each dog or cat of which he is the owner, vaccinated against rabies and registered with the City in accordance with this Ordinance. An offense under this Subsection is a Class "C" misdemeanor and upon conviction thereof shall be deemed guilty and shall be fined a sum not to exceed $500.00 for each violation per animal.

Section V. Restraint and Control of Animals

A All animals shall be kept under restraint. No owner shall fail to exercise proper care and control of his animals in order to prevent them from becoming a public nuisance, and the owner of every animal shall be held responsible for every action of such animal under provisions of this Ordinance and State Law.

B When any animal is found running at large and its ownership is verified by the Animal Control Officer, the officer may exercise the option of serving the owner with a notice or citation of violation in lieu of impounding the animal.

C In the event that an animal has been identified as belonging to an individual and a reasonable effort has been made to contact the owner for purposes of confinement and/or issuance of citations, where no contact was made, the officer may issue a citation without the signature of the legal owner. A copy shall be mailed to the residence of the owner by U.S. Certified Mail with Return Receipt Requested. The mailing of such notice as provided herein shall constitute notice to the legal owner for all purposes.

D When any animal deposits feces on any property other than that owned by the animal's owner, it is the owner's responsibility to remove and dispose of said deposit. Failure to do so constitutes a nuisance punishable by a fine.

E A person commits an offense if he fails or refuses to restrain any animal of which he is the owner, or if he permits his animal to cause a nuisance. An offense under this Subsection is a Class "C" misdemeanor and upon conviction fined in a sum not to exceed $500.00 for each and every violation.

Section VI. Impoundment and Disposal

A It shall be the duty of the animal control officer to apprehend, confine and impound all dogs and other animals as follows:

1) **All dogs or other animals infected or suspected of being infected with rabies and all animals exposed to an animal infected with rabies, including animals known to have been bitten by a rabid animal, whether the animal to be impounded is running at large or on a leash or whether it is confined to its owner's premises;**

2) **Animals which have bitten a person or which have been exposed to rabies;**

3) **Animals which are stray, at large, or unrestrained.**

B All animals picked up under this Section shall be impounded by the animal control officer in an animal shelter or other impounding facility and confined in a humane manner.

C Immediately upon impounding any animal, the animal shelter shall make a complete registry of the animal, by entering the breed, color, and sex of such animal, and the place and time of taking into custody.

D Immediately upon impounding any animal, the animal control officer or animal shelter shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Animals bearing license tags or identification shall be held five (5) full days. Animals bearing no tags or identification shall be held three (3) days. Animals not claimed by their owners within the above specified times shall become the property of the City of Panorama Village.

E Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

F When an owner makes a request to relinquish his animal to animal control, a fee for services requested will be required and followed as follows: $25.00 for the first animal; $15.00 for the second animal; and $5.00 for each subsequent animal. The owner or custodian shall be determined by, Section II (V) of this Ordinance. The owner shall be required to sign an "owner turn in" release identification card, which releases the officer and the City of Panorama Village from any and all responsibilities either civil or criminal. By signing the "owner turn in" card, the owner shall surrender all claims to said animal.

Section VII. Redemption

A Any animal impounded may be redeemed by its owner thereof within three (3) days if untagged and within five (5) days if appropriately tagged upon payment

of an impound fee to be determined by the City of Panorama Village and any and all fees charges by the animal shelter that impounded the animal. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, license fees, veterinarian fees, or pound fees.

B No animal required to be vaccinated under this Ordinance may be redeemed until the provisions for such vaccinations have been fulfilled.

C Any person, other than a designated agent of the City of Panorama, who transports any animal in accordance with the provisions of this Section shall be responsible for any and all fees collected by the Humane Society or other designated shelter.

Section VIII. Disposal of Quarantined and Impounded Animals

A The animal shelter or impounding facility is authorized to keep, return to owner, place for adoption any animal that the owner or custodian does not take possession of as provided in Sections VI and/or VII with a reasonable party, or humanely dispose of or destroy, in such a manner as the animal control officer deems necessary under the circumstances.

B It is expressly provided that in case of diseased, sick, injured or otherwise unhealthy animals impounded under these regulations, it shall be unnecessary to await the expiration of the impoundment or redemption period before disposing of such animals providing the animal control officer is notified and proper procedures for rabies control are enforced.

Section IX. Releasing or Dumping Animals

A No person shall dump, release, or abandon any animals or any property, whether public or private, within the City.

B Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal or any animals which has been dumped, released or abandoned, to remain on this property or allows or permits egress and/or ingress for seven (7) or more days without notifying the animal control officer, shall hereby be deemed the owner of said animal.

C A person commits an offense if he intentionally abandons an animal in his custody. Such offense is punishable as a Class "A" misdemeanor under Section 42.11 of the Texas Penal Code.

Section X. Rabies

A When a dog or cat, which has bitten a human, has been identified, the owner shall be required to place the animal in quarantine as required by the Rabies Control Act of 1981 and the amendments and rules of the Texas Board of Health

in effect at that time. Expenses incurred by quarantine of animals, either vaccinated or unvaccinated, shall be the sole responsibility of the owner or custodian.

B Failure to place the animal in quarantine within a reasonable amount of time shall be a violation of the Ordinance and State laws, and the person shall be guilty of a Class "C" misdemeanor. For each and every day the animal has not been placed in quarantine, the owner shall receive a citation up to the tenth day of the bite.

1) When the owner requests the agent of the City to transport the bite animal for purposes of quarantine, the officer shall receive a "transport fee" of $25.00 to be paid to the City.

C 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 Texas Department of Health laboratory for rabies diagnosis.

D The body of any animal that has died of rabies shall not be disposed of except as directed by the local health authority director.

E Any person having knowledge of an animal bite to a human will report the incident to the local health authority director as soon as possible after the incident.

F Every veterinarian or other person who is called to examine or professionally attend any animal in the City of Panorama Village suspected of having rabies or other zoonotic diseases shall, within twenty-four (24) hours thereafter, report to the local health authority director the following facts:

1) A statement of the location of such diseased animal;
2) The name and address of the animal's owner; and
3) The type and character of the disease.

G Disposition of domestic animals exposed to rabies:

1) Unvaccinated animals which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be:
   a. Humanely killed; or
   b. If sufficient justification for preserving the animal exists, the exposed animal should be immediately vaccinated against rabies, placed in confinement and strict isolation for six (6) months and given a booster vaccination one (1) month prior to release from isolation.

2) Vaccinated animals, which have been bitten or otherwise significantly exposed to a rabid animal, should be.

a. Humanely killed, or
b. If sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination and placed in confinement and strict isolation for three (3) months.

3) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

H Any person who refuses to comply with, and violates the provisions of this Section, and fails to quarantine a dog or cat which has been deemed or identified as the biting animal shall be guilty of a Class "C" misdemeanor and shall be fined in a sum not to exceed $500.00 for each and every violation.

Section XI. Interference

A person commits an offence if he interferes with, hinders, or molests the animal control officer, or other party designated by the City of Panorama Village Police Department for said purposes, in the performance of duties delegated hereunder, or seeks to release any animal taken and held in custody under the provisions of this Ordinance, except as herein provided. This offense is a Class "A" misdemeanor under the Texas Penal Code.

Section XII. Severability

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and invalidity thereof shall not affect the remaining parts of this Ordinance.

Section XIII. Repealing Clause

All ordinances or parts of ordinances in conflict the provisions of this Ordinance are hereby expressly repealed, and ordinances amending same.

Section XIV. Open Meetings Clause

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section XV. Effective Date

This Ordinance shall become effective on the 1st day of January 2005, upon publication as provided by law.

PASSED AND APPROVED on this the 24th **day of** MAY **2005.**

CITY OF PANORAMA VILLAGE, TEXAS

Howard L. Kravetz, Mayor

ATTEST:

Lisa Evans, City Secretary

APPROVED AS TO FORM:

City Attorney