

# TOWN OF SIMMESPORT

REV. LESLIE DRAPER III  
MAYOR

DISTRICT I  
GLEN GEAUTREAUX

DISTRICT III  
PATRICK WRIGHT



ALDERMAN AT LARGE  
ROMARO TURNER

DISTRICT II  
TIESHA KENNEDY

DISTRICT IV  
SHERMAN BELL

## CRIMINAL CODE ORDINANCE ORDINANCE NUMBER: 01-09-2023

AN ORDINANCE, IN GLOBO, TO RE-DEFINE, RE-ENACT, CLARIFY, UPDATE, AND SPECIFY THE VARIOUS ORDINANCES OF VARIOUS CHAPTERS OF THE CODE OF ORDINANCES OF THE TOWN OF SIMMESPORT TO ENSURE FOR THE HEALTH, SAFETY, AND PROSPERITY OF THE CITIZENS OF THE TOWN OF SIMMESPORT

**Whereas**, Louisiana Revised Statute Title 33 Section 361 provides that except as provided in the Laws of the State of Louisiana, a municipality shall be vested with all powers, rights, privileges, immunities, authorities, and duties heretofore possessed in accordance with all constitutional and statutory provisions with respect thereto, and is further authorized to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs that is not denied by law.

**Whereas**, Louisiana Revised Statute Title 32 Section 471 provides a municipality with the authority to enact ordinances regulating the abandonment, impoundment, and disposition of motor vehicles.

**Whereas**, Louisiana Revised Statute Title 33 Section 1368 provides a municipality with the authority to adopt a building, electrical, traffic, or other code by ordinance of the governing authority without the necessity of publishing the text of the code. The code shall be identified in the ordinance and signed by the mayor and by the secretary or clerk of the municipality.

**Whereas**, Louisiana Revised Statute Title 33 Section 4876 provides a municipality with the authority to enact ordinances regulating or prohibiting the storing or abandoning of junk, wrecked, or used automobiles or motor vehicles, or any part or parts thereof, or any other junk, discarded or abandoned major appliances, such as refrigerators, freezers, ranges, or machinery or other metal, tin, or other discarded

items, on any vacant lot, or any portion of any occupied lot, neutral ground, street or sidewalk, within the municipality.

**Whereas**, Louisiana Revised Statute Title 33 Section 5062 provides a municipality with the authority to enact ordinances requiring that the property be maintained in a safe and sanitary condition, including ordinances providing for the cutting, destruction, or removal of noxious weeds or grass, or other deleterious, unhealthful, or noxious growths on any sidewalks or banquettes an on any lot, place, or area within the municipality, and any charges, costs, and expenses incurred by the municipality in enforcing such ordinances, shall, to the extent of the actual cost thereof to the municipality be a charge, cost, or expense of the property abutting the sidewalk or banquette or of the lot, place, or area, and the owner thereof.

**Whereas**, Louisiana Revised Statute Title 33 Section 4761 provides a municipality with the authority to condemn and cause to be demolished or removed any building or structure within the municipality when it is in a dilapidated and dangerous condition which endangers the public welfare.

**Whereas**, Louisiana Revised Statute Title 40 Section 1730.23 provides a municipality with the authority to enforce construction codes and building codes of the State of Louisiana.

**Whereas**, Louisiana Revised Statute Title 44 Section 32(C)(1)(a), as amended by Acts 2022, 337 allows a municipality to charge fees for the production and transmission of electronic copies of public records and requires payment in advance prior to production.

**Whereas**, the Board of Aldermen of the Town of Simmesport wish to re-define, re-enact, clarify, update, and specify the Ordinances of the Town of Simmesport as they apply to various nuisances and other situations affecting the Health, Safety, and Prosperity of the Citizens of the Town of Simmesport.

**Now, therefore, be it ordained**, by the Board of Aldermen for the Town of Simmesport, at a duly called and properly announced meeting of the Board of Aldermen of the Town of Simmesport on the \_\_\_\_ day of \_\_\_\_\_, 2023 does hereby adopt and enact the following provisions amending and supplementing the Code of Ordinances for the Town of Simmesport:

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## GENERAL DEFINITIONS

For the purposes of this Ordinance, and any applicable chapters or sections of the Code of Ordinances for the Town of Simmesport, the following terms, phrases, words, and their derivations shall have the meanings given herein:

*Abandoned Motor Vehicle* shall have the same meaning set forth in La. R.S. 32:471, and, additionally, shall mean:

1. A motor vehicle that is inoperable and is left unattended on public property (including the shoulders of highways and roads) for more than twenty-four (24) hours; or
2. A motor vehicle that has remained illegally on public property for more than twenty-four (24) hours; or
3. Any motor vehicle (whether or not it is operable) that has remained on private property without the consent of the property owner or person in control of the property for more than three (3) days.

*Authorized receptacle* shall mean any privately-owned litter storage and collection receptacle.

*Crime* shall mean an offense which is a violation of municipal ordinance.

*Dispose* shall mean to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

*Felony* shall mean any crime for which an offender may be sentenced to death or imprisonment at hard labor. La. R.S. 14:2(4)

*Garbage* shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, and consumption of food.

*Junk* shall mean:

1. Any discarded or abandoned machinery, appliances, furniture, metal, tin, mechanical parts, plastic, rubber, paper, rubble, stone, masonry pieces, glass, trash, debris, wood, lumber, or any other refuse; or
2. Any condition which provides harborage for rats, mice, snakes, and/or other vermin.

*Junk, Wrecked, or Used Automobiles or Motor Vehicles* shall mean any motor vehicle which is totally inoperable, left unattended on any unused portion of any occupied lot, neutral ground, street, or sidewalk, and is so damaged or dismantled as to be a total loss.

*Litter* shall mean all waste material except hazardous waste as provided and defined in R.S. 30:2173(2), including, but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, roofing nails or other discarded materials of any kind and description. While being used for or distributed in accordance with their intended uses, litter shall not include political pamphlets, handbills, religious tracts and newspapers, and other similar printed materials, the unsolicited distribution of which is protected by the Constitution of the United States or the constitution of the state. Litter shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. The term "*agricultural product*," as used in this definition, means all crops, livestock, poultry and forestry, and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

*Livestock keeping, raising, or breeding* shall mean the keeping, raising, or breeding of any animals, including fowl, of any type or nature whatsoever; however this definition shall exclude:

1. Keeping common household pets such as dogs, cats, hamsters, or caged birds for personal comfort and not as a commercial activity or with any expectation of realizing any proceeds or otherwise profiting therefrom;
2. The occasional sale of pet offspring;
3. Small animal veterinary clinics and kennels.

*Misdemeanor* shall mean any crime other than a felony. La. R.S. 14:2(6).

*Newspaper* shall mean any newspaper of general circulation and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year.

*Nuisance* shall mean any and all prohibitions contained in articles 659 through 696.1 of the Louisiana Civil Code.

*Owner* shall mean the individual or group of persons or legal entities who maintain the legal control of real or movable property. If more than one person or entity has a legal interest in the property, real or movable, official notice sent to one owner is said to be notice to all.

*Park* shall mean a park, reservation, playground, beach, recreation center or any other public area in the municipality, owned or used by the municipality and devoted to active or passive recreation.

*Private premises* or *Private property* shall mean any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

*Public place* means any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

*Refuse* shall mean all putrescible and nonputrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, discarded and abandoned major appliances such as refrigerators, freezers, ranges or machinery or other metal or other discarded items, and solid and industrial wastes.

*Rubbish* shall mean nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, tree limbs or branches, grass cuttings or sweepings, wood, piles or rows of dirt and plant material, glass, bedding, crockery, dilapidated fencing and similar materials.

*State* means this municipality.

*Title 14* shall mean Title 14 of the Louisiana Revised Statutes of 1950, as amended, whether current with or subsequent to the effective date of this Section.

*Title 15* shall mean Title 15 of the Louisiana Revised Statutes of 1950, as amended, whether current with or subsequent to the effective date of this Section.

*Title 32* shall mean Title 32 of the Louisiana Revised Statutes of 1950, as amended, whether current with or subsequent to the effective date of this Section.

*Title 40* shall mean Title 40 of the Louisiana Revised Statutes of 1950, as amended, whether current with or subsequent to the effective date of this Section.

*Title 47* shall mean Title 47 of the Louisiana Revised Statutes of 1950, as amended, whether current with or subsequent to the effective date of this Section.

*Total loss* shall mean when the cost to repair a damaged or dismantled motor vehicle exceeds the junk value of said vehicle, as determined by any recognized national appraisal book.

*Vehicle* shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon stationary rails or tracks.

## GENERAL PENALTY

- a. Except as otherwise provided by state law, whenever in this Code or in any ordinance of the municipality an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this Code or of any ordinance shall be punished by a fine of not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for not more than sixty (60) days, or both such fine and imprisonment. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. A provision for the revocation or refusal of a permit or license or other provision not imposing a fine or punishment shall not be deemed a provision for a specific penalty within the meaning of the foregoing sentence.
- b. Any person who shall aid, abet, or assist in the violation of any provision of this Code or any other ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in this section.

**State Law Reference** – No local government shall punish a felony, La. Const. Art. VI, §9; maximum fine for violation of ordinance, La. R.S. 33:362 (A)(2)(b).

## CRIMINAL CODE

### SECTION 1. TITLE

The Title of the criminal code shall be the “Criminal Code for the Town of Simmesport.

### SECTION 2. CRIMINAL CODE ADOPTED

A. Pursuant to La. R.S. 33:1368 and except as otherwise provided herein, the provisions of Title 14 of the Louisiana Revised Statutes titled “Criminal Law” in its current form and as may be amended from time to time is incorporated herein by reference thereto as fully and as completely as though set forth herein in its entirety are hereby adopted as ordinances regarding offenses occurring within this Municipality.

- 1) This Section does not adopt any provision of Title 14 which is either:
  - i. Declared unconstitutional in a in a final judgment by a court of competent jurisdiction.
  - ii. Prohibited from begin adopted or enforced as a municipal ordinance by federal or state law, or is preempted by federal or state law.
  - iii. Not applicable within this municipality.

- 2) This ordinance shall specifically exclude all felonies except those specifically enumerated and referenced in La. R.S. 14:143.
  - 3) This ordinance shall include the felonies enumerated in La. RS. 14:143 as it may be amended from time to time.
- B. Pursuant to La. R.S. 33:1368, the provisions of Title 32 of the Louisiana Revised Statutes titled "Louisiana Uniform Traffic Code" in its current form and as may be amended from time to time is incorporated herein by reference thereto as fully and as completely as though set forth herein in its entirety are hereby adopted as ordinances regarding offenses occurring within this Municipality.
- C. Pursuant to La. R.S. 33:1368, portions of the provisions of Title 47 of the Louisiana Revised Statutes as they pertain to the operation of motor vehicles, traffic violations, motor vehicle violations, or the costs assessed in their current form and as may be amended from time to time is incorporated herein by reference thereto as fully and as completely as though set forth herein in its entirety are hereby adopted as ordinances regarding offenses occurring within this Municipality.
- D. Title 14, Title 32, Title 40, and Title 47 of the Louisiana Revised Statutes, in pertinent part, and as amended from time to time by the Louisiana Legislature are incorporated herein by reference thereto as fully and completely as set forth herein.
- E. No offense shall be prosecuted nor sentence applied as a second or subsequent conviction of the same offense, unless the offenses are prosecuted in a court of record.
- F. No person who violates a provision adopted by this Section shall be fined more, imprisoned longer, or both, than the penalty provided for violation of the same offense in Title 14, Title 32, Title 40, or Title 47, and in no case shall the maximum penalty for a violation of this Section exceed a fine more than five hundred dollars and/or imprisonment for more than sixty days.
- G. Each section of Title 14 adopted by this Section shall be cited as "Section 14: " and the number to the right of the colon being the parallel section number of Title 14.
- H. Each section of Title 32 adopted by this Section shall be cited as "Section 32: " and the number to the right of the colon being the parallel section number of Title 32.
- I. Each section of Title 40 adopted by this Section shall be cited as "Section 40: " and the number to the right of the colon being the parallel section number of Title 40.
- J. Each section of Title 47 adopted by this Section shall be cited as "Section 47: " and the number to the right of the colon being the parallel section number of Title 47.

### **SECTION 3.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

#### **SECTION 4.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

#### **SECTION 5.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

#### **SECTION 6.**

Copies of the applicable provisions of this Criminal Code, as adopted, may be referenced and accessed at <https://legis.la.gov/Legis/LawSearch.aspx>

#### **SECTION 7.**

The repeal of any provision of any section, paragraph, sentence, clause, phrase, or other provision or part of any of the Statutes or Titles adopted herein by reference and made part of this Code shall not affect any offense committed or act done prior to the effective date of such repeal, or any penalty or forfeiture incurred for an offense committed under the provision repealed or any prosecution or suit pending at the time of such repeal for an offense committed under the provisions repealed.

### **CODE OF CRIMINAL PROCEDURE**

#### **SECTION 1. TITLE**

The Title of code of criminal procedure shall be the “Code of Criminal Procedure for the Town of Simmesport”.

#### **SECTION 2. CODE OF CRIMINAL PROCEDURE ADOPTED.**



Pursuant to La. R.S. 33:1368, The Louisiana Code of Criminal Procedure and Title 15 of the Louisiana Revised Statutes titled “Ancillaries to the Code of Criminal Procedure” in current form and as may be amended from time to time are incorporated herein by reference thereto as fully and completely as though set forth herein in its entirety except insofar as a particular provision is incompatible with the general nature and organization of, or special procedures established or authorized by law for this court.

### **SECTION 3.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

### **SECTION 4.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

### **SECTION 5.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

### **SECTION 6.**

Copies of the applicable provisions of this Criminal Code, as adopted, may be referenced and accessed at <https://legis.la.gov/Legis/LawSearch.aspx>

### **SECTION 7.**

The repeal of any provision of any section, paragraph, sentence, clause, phrase, or other provision or part of any of the Statutes or Titles adopted herein by reference and made part of this Code shall not affect any offense committed or act done prior to the effective date of such repeal, or any penalty or forfeiture incurred for an offense committed under the provision repealed or any prosecution or suit pending at the time of such repeal for an offense committed under the provisions repealed.

## **CODE OF EVIDENCE**

### **SECTION 1. TITLE**

The Title of this Ordinance shall be the “Code of Evidence for the Town of Simmesport”.

### **SECTION 2. CODE OF EVIDENCE ADOPTED.**

Pursuant to La. R.S. 33:1368, The Louisiana Code of Evidence in current form and as may be amended from time to time are incorporated herein by reference thereto as fully and completely as though set forth herein in its entirety except insofar as a particular provision is incompatible with the general nature and organization of, or special procedures established or authorized by law for this court.

### **SECTION 3.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

### **SECTION 4.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

### **SECTION 5.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

### **SECTION 6.**

Copies of the applicable provisions of this Criminal Code, as adopted, may be referenced and accessed at <https://legis.la.gov/Legis/LawSearch.aspx>

**SECTION 7.**

The repeal of any provision of any section, paragraph, sentence, clause, phrase, or other provision or part of any of the Statutes or Titles adopted herein by reference and made part of this Code shall not affect any offense committed or act done prior to the effective date of such repeal, or any penalty or forfeiture incurred for an offense committed under the provision repealed or any prosecution or suit pending at the time of such repeal for an offense committed under the provisions repealed.

**RULES OF COURT FOR THE MUNICIPAL COURT OF THE TOWN OF SIMMESPORT****SECTION 1. TITLE**

The Title of this Ordinance shall be the “Rules of Court for the Municipal Court of the Town of Simmesport.

**SECTION 2. RULES OF COURT****Rule Number 1 – Construction of Rules**

- A. These rules are intended to govern the interaction between the Court, attorneys, and litigants and to ensure the administration of justice in an efficient and effective manner.
- B. The term “Mayor,” when used in these Rules, includes a presiding Magistrate.

**Rule Number 2 – The Mayor’s Chambers**

The privacy of the Judge’s Chambers shall be respected at all times.

**Rule Number 3 – Days and Hours of Court; Order of Business**

- A. Days of Court. – Court shall be held on the last Monday of each month and at other times designated by the Mayor.
- B. Hours of Court. – Court shall commence at 6:00 P.M. or at other times designated by the Mayor.
- C. Regular Order of Business. – The regular order of business each court session shall be as follows:
  - 1) Arraignments
  - 2) Assignments for Trial
  - 3) Trials
  - 4) Bond Forfeitures
  - 5) Adjournment

The Mayor may set the order of business for each court session and may deviate from the order of business stated herein for good cause and for the efficient administration of justice.

#### **Rule Number 4 – Court Officials**

- A. The Clerk and the Bailiff shall be in attendance at all times while the Court is in session.
- B. The Marshal (Chief of Police) or one of his deputies or officers shall serve as Bailiff during all proceedings. The Bailiff shall direct all persons in the courtroom when they are to rise, in accordance with the directions of the Court.

#### **Rule Number 5 – Opening of Court**

Immediately before the scheduled court time, the Bailiff shall direct all other court officers and spectators to their seats. As the Mayor enters the courtroom, the Bailiff shall require all present to rise and remain standing. When the Mayor has been seated upon the bench, the Bailiff shall say:

“The Mayor’s Court for the Town of Simmesport is now in session, the Honorable \_\_\_\_\_ (Mayor / Magistrate) presiding. No smoking allowed. You may be seated.”

#### **Rule Number 6 – Approaching The Bench**

No person shall approach the Mayor’s bench while Court is in session, or while the Mayor is seated upon the bench, except by permission of the Court.

#### **Rule Number 7 – Proper Attire**

All persons shall be properly attired while in the courtroom when Court is in session.

#### **Rule Number 8 – Conduct of Persons in Attendance**

- A. Every person entering the courtroom while Court is in session shall immediately be seated and conduct himself in a quiet and orderly manner.
- B. All persons attending a Court session shall remain in the spectator area, except Court personnel, members of the bar, and participants in the Court proceedings.
- C. No person shall be permitted to remain standing in the courtroom during a session of Court, unless he is engaged in the trial of a case or is a court officer in attendance upon such session.
- D. Smoking is prohibited while Court is in session.
- E. No person may engage in any conduct that would be disruptive to the business of Court, including, but not limited to, the following:
  - 1) Using tobacco in any form at any time.
  - 2) Reading newspapers while Court is in session.
  - 3) Displaying any political advertisement of any nature.

- 4) Using a cell phone or other electronic device in any manner.
- F. Attorneys, as officers of the Court, must help to maintain the dignity of the Court.
- G. No one may wear a hat or be barefoot in the courtroom. Witnesses and spectators must appear neat and clean, within the limits of propriety. The Court will make allowances for those who must appear in work clothes and for those whose attire is dictated by their religion.
- H. Broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of Court or recesses between sessions is strictly prohibited.
- I. The use of electronic transmitters, receivers, or entertainment devices such as cellular telephones, beepers, computer disk players, smart phones, tablets, computers, laptops, etc. are prohibited in the courtroom.

### **Rule Number 9 – Attorney’s Conduct During Hearings**

- A. Any attorney who tenders himself or herself before the Court and represents that he or she is duly authorized to practice law, but who has been declared ineligible, suspended, or disbarred from practice before the courts of this State, shall be subject to contempt proceedings.
- B. No one may represent a party in any proceeding except counsel of record, unless allowed to do so by law.
- C. Attorney’s Behavior During Trial.
  - 1) Attorneys, during trial, shall not exhibit familiarity with the defendant, witnesses, or opposing counsel, and the use of first names shall be avoided.
  - 2) Attorneys shall rise and remain standing while addressing the Court. Attorneys shall address all remarks, objections, and comments to the Mayor, never to opposing counsel. All statements and communication by an attorney to the Court shall be clearly and audibly made from the attorney’s chair.
  - 3) Attorneys shall not appear to engage the Court in conversation in a confidential manner.
  - 4) Unless directed otherwise by the judge, all judgments, orders, decrees, or other documents shall be handed to the clerk, who shall hand them to the judge.

### **Rule Number 10 – Defendants**

The Defendant shall stand, with his attorney, if represented by one, before the bench during the arraignment or when entering a plea, as well as at the time of the passing of sentence.

### **Rule 11 – Witnesses**

- A. Witnesses. – Witnesses will be treated with courtesy and respect.
- B. Swearing in of Witnesses – Witnesses shall be sworn near the bench.

C. Examination of Witnesses –

- 1) Attorneys shall refrain from harassing or badgering a witness purposely.
- 2) Attorneys may not approach the witness in the witness chair without first obtaining the Court's permission.
- 3) When an attorney completes his examination of a witness, he shall so indicate to the opposing counsel.

**Rule 12 – Exhibits**

Exhibits to be offered shall first be handed to the Clerk, numbers by him consecutively, and offered before they are submitted to opposing counsel. They shall then be admitted or excluded, and thereafter may be referred to by number.

**Rule 13 – Assignments**

- A. The Docket. – Assignments of cases for trial shall be made by the Mayor. The Clerk shall maintain an Assignment Docket showing Title, Docket Number, Date and Time of Assignment and Attorney or Attorneys of Record.
- B. Motion for Assignments. – All Assignments shall be made by motion in open court. Motions for reassignments shall be by oral motion, in open court.

**Rule 14 – Courtroom Security**

The Chief of Police or his designee shall provide security for the courtroom, chamber, offices, and hallways.

**Rule 15 – Mayor's Discretion**

The Mayor may, in the interest of justice and upon notice to all parties, permit deviations from these rules in a particular proceeding.

**SECTION 3.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

**SECTION 4.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

**SECTION 5.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

**SECTION 6.**

Not less than two copies of the most current version (in pamphlet form) of The Court Rules for the Municipal Court of the Town of Simmesport shall be permanently retained in the office of the Town Clerk, said copies to be made available for public inspection during regular office hours.

**SECTION 7.**

The repeal of any provision of any section, paragraph, sentence, clause, phrase, or other provision or part of any of the Statutes or Titles adopted herein by reference and made part of this Code shall not affect any offense committed or act done prior to the effective date of such repeal, or any penalty or forfeiture incurred for an offense committed under the provision repealed or any prosecution or suit pending at the time of such repeal for an offense committed under the provisions repealed.

**ANIMALS****DOGS AT LARGE; PROHIBITED.**

- a. No persons shall suffer or permit a dog owned by him or in his possession, or kept by him about his premises, to roam at large in the municipality at anytime.
- b. Dogs, when not caged, in fenced yards, indoors or tethered, are required to be under the control of the owner by leash, tether or other means of control so as not to present a nuisance or danger to the public.
- c. If chained or otherwise tethered, the minimum tether length shall be a 15-foot radius, providing a 30-foot exercise diameter. Dog collars for tethered animals shall be leather or nylon.
- d. The owner, possessor or keeper of any dog who suffers or permits it to roam at large in the municipality shall be liable to be punished as provided in this article.

**PROHIBITING ANIMALS FROM BECOMING A PUBLIC NUISANCE; PENALTIES**

- a. Every owner or keeper of animals shall exercise proper care and control of such animals so as to prevent them from creating or becoming a public

- nuisance. Excessive or untimely barking, howling or yelping so as to disturb the peace and quiet of a neighborhood or its residents or to disturb the health or repose of the residents; attacking or molesting passersby or other animals; being repeatedly at large; chasing vehicles; scratching on or digging into or urinating or defecating upon laws, shrubs or any property either public or private other than property of the owner or keeper of an animal, all shall be deemed to be the creation of a public nuisance and the owner or keeper of an animal causing such public nuisance shall be guilty of a violation of this section and shall be punished according to the General Penalties Ordinance of the Town of Simmesport.
- b. In the case of nuisance by defecation, the owner or keeper of the animal must remove all feces and dispose of them in a sanitary manner or be considered to be in further violation of the provisions of this section and shall be punished according to the General Penalties Ordinance of the Town of Simmesport.

## **HEALTH, SAFETY, AND SANITATION**

### **IN GENERAL**

#### **Purposes, Authority, and General Requirements.**

- A. The intent of this chapter is to foster harmonious relationships between citizens and promote the health, safety, and prosperity of all Ball citizens by specifying the rights and responsibilities of property owners and others in the town limits of the Town of Simmesport for maintaining property under their control.
- B. Provisions in this chapter, when not governed by other statutes as specified herein, were adopted pursuant to R.S. 33:361.
- C. Property owners, lessees, and/or occupants of property in the Town of Simmesport shall maintain the properties under their control in a clean, sanitary, and safe condition as required herein. Failure to do so may result in the responsible party being charged with a misdemeanor, being issued an injunction from a court of competent jurisdiction, and/or being subject to abatement and cost recovery action by the town.

#### **Illustrative Enumeration**

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions are hereby declared to be and constitute a nuisance and shall be prohibited in the Town of Simmesport; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:



1. Accumulation of garbage; rubbish; trash; refuse; junk; junk, wrecked or used automobiles or motor vehicles; and other abandoned materials, metals, lumber, or other things.
2. Any condition which provides harborage of rats, mice, snakes, and/or other vermin.
3. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such any unsanitary condition that it is a menace to the health of people in the vicinity thereof or presents a fire hazard.
4. All unnecessary or unauthorized noises and annoying vibrations, including animal noises, as well as the conditions, machinery, or other causes which give rise to such unauthorized noises and annoying vibrations.
5. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances, or other causes which give rise to the emission or generation of such odors and stenches.
6. The carcasses of animals or fowl not disposed of within a reasonable time after death.
7. The pollution of any public well or cistern, ditch, canal, stream, lake, or other body of water, except for legally maintained oxidation ponds, by sewerage, dead animals, creamery or industrial wastes, trash, garbage, refuse, junk, litter, rubbish, chemical or biological waste, or other illegal substances.
8. Any building, structure, or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained.
9. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
10. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.

### **Enforcement**

Unless otherwise specified in specific sections of this chapter for specific types of violations, any of the following procedures, abatement, injunction, and misdemeanor penalties may be used by the town to enforce this chapter's provisions.

#### **General abatement procedures:**

- A. In the event that any person, including but not limited to the property owner, general agent of property, lessee or tenant shall fail or neglect to comply with the provisions of this chapter, the Town of Simmesport is authorized, empowered, and directed to cause the violation to be corrected and abated and to assess the charges against the person responsible.

- B. If the Town of Simmesport undertakes abatement action, the property owner shall be notified of the town's intent to abate the violation according to the applicable provision concerning said violation.
- 1) The town may serve notice on the owner by registered or certified mail, addressed to the owner at his last known address or through personal delivery by an employee of the town when appropriate.
    - i. In the case of right-of-way obstructions, notice may be in the form of a "notice to remove" attached to the obstruction itself.
    - ii. Litter in public rights-of-way or on public property may be abated without notification.
  - 2) Notice of the town's intent to abate a violation shall identify the explicit nature and location of the violation, including the legal property description, the owner thereof who is responsible, and the length of time allowed for voluntary correction.
  - 3) The town may extend the time limit for compliance or voluntary abatement through the execution of an abatement contract, signed and duly executed, which specifies the actions to be taken and the time limit allowed.
- C. All charges, costs, and expenses for abatement or correction of the violations incurred by the town shall be assessed to the person responsible and/or the property owner; and, if said person refuses to reimburse the town's costs within 30 days, the amount thereof may be collected through attachment of a tax lien.
- 1) The privilege and lien may be enforced by ordinary process in the district court within three years after it has been perfected.
  - 2) Alternatively, the privilege and tax lien may be enforced by assessing the amount as a tax against the immovable and collected as any ordinary property tax lien to be assessed against the property and subject to the same civil penalties for delinquencies.
- D. Abatement actions taken by the town under this chapter shall not preclude the imposition of criminal penalties as otherwise provided by law.

Court action:

- A. The town may petition a court of competent jurisdiction for injunctive relief when responsible parties refuse to comply with the town's lawful order to correct violations of this chapter.
- B. In addition to the lien and enforcement procedures authorized under this section, the town has a cause of action against the owner personally for the cost incurred by the town, if such owner is not indigent and has the ability to pay a judgment obtained by the town.

Misdemeanor penalties

Any person violating any provision of this chapter may be punished by a fine of not less than \$25.00 and not more than \$500.00, or by imprisonment for a term of not

less than three days and not more than six months, or both. Each day that a violation continues shall be considered a separate offense.

*Interpretation; validity; effective date; repealer.*

- A. *Interpretation:* In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Whenever the provisions of this chapter require higher standards than are required in any other applicable statute, ordinance or regulation, the provisions of this chapter shall govern.
- B. *Validity:* The requirements and provisions of this chapter are severable, and should any section or part thereof be declared by any court of competent jurisdiction to be unconstitutional or invalid the decision of the court shall not affect the validity of the chapter as a whole or any section or part thereto other than the section or part thereof so declared to be unconstitutional or invalid.
- C. *Effective date:* This chapter shall become effective after its adoption and publication according to law.
- D. *Repealer:* All ordinances or parts of ordinances in conflict with or inconsistent with the provisions of this chapter are hereby repealed.

**SANITARY CODE**

*Sanitary Code Adopted*

- A. There is hereby adopted by reference a certain code known as the Sanitary Code of the State of Louisiana, promulgated by the Louisiana State Board of Health and the same as is currently in force and as is amended from time to time by the state is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling on all dwellings and premises within the town.
- B. It shall be unlawful for any person to violate any provisions of the code adopted by reference herein and violators may be subject to the penalties or actions specified in the General Penalties Ordinance of the Code of Ordinances of the Town of Simmesport.

**NUISANCES**

*Nuisances Prohibited*

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance as defined herein.

*Obstructions on Public Rights-of-way.*

The building, erecting, or installing or structures, buildings, fences, walls, billboards, signs, poles, mailboxes, barricades, ramparts, or other works either temporary or

permanent, in public alleys, ditches, or rights-of-way or on any other public property by any person, corporation or entity is prohibited except as provided in this section.

1. *Temporary structures.*
  - a. Persons, contractors, private corporations, or private agencies may erect or maintain temporary signs, buildings, structures, or traffic control devices within rights-of-way after obtaining a permit from the Ball Director of Public Works or other public official empowered to issue such permits.
  - b. Permit holders may place such temporary signs and warning devices as are authorized to guide, inform, regulate, and warn the public of dangers arising from the work being done within the right-of-way.
  - c. In the case of roads or highways under the control of the State of Louisiana, permits for the placement of obstructions must also be obtained from the Louisiana Department of Transportation and Development and any other state agency responsible for the issuance of permits.
  - d. Pursuant to penalties prescribed in R.S. 32:237, necessary and authorized protective barricades, signs, or signals shall not be tampered with or destroyed.
2. *Utility poles and structures.*
  - a. As authorized by the Town of Simmesport, utility companies may erect such poles and structures as are needed for the provision of services to its municipal customers.
  - b. Posters, signs, fliers and other manner of notices are prohibited on utility structures located in public rights-of-way or otherwise on public property.
3. *Posters on poles, structures, and trees and temporary yard signs.*
  - a. The attaching of posters, signs, notices, or announcements to utility poles, columns, fences, walls, or other authorized structures in rights-of-way or on public property is prohibited without the permission of the utility agency in control of the structure. They may be removed by the utility company in control of the structure, or they may be removed by the Town of Simmesport pursuant to this section.
  - b. The attaching of posters, signs, notices, or announcements to trees or ornamental shrubbery in rights-of-way or on public property is prohibited. They may be removed by the Town of Simmesport pursuant to this section.
  - c. Temporary yard signs, including signs promoting political candidates, posted or left in public rights-of-way or on public property are not exempt from the requirements of this section; however, they are defined by law as "litter" and may be collected as such by appropriate authorities pursuant to this chapter.
  - d. Pursuant to R.S. 32:236, the Town of Simmesport may authorize approved advertisements on freestanding billboards and signs and on

convenience facilities such as benches, shelters, and kiosks in public rights-of-way or on public property.

4. *Balcony supports.* Columns to support balcony structures in pedestrian ways are permitted if constructed according to provisions of the town's adopted building codes and any adopted regulations designed to promote historic architecture.
5. *Mailboxes.* Mail receptacles in rights-of-way should conform to postal service regulations as specified in the U.S. Postal Service's document, Domestic Mail Services Transition Book. These rules allow traditional "door to door" delivery in commercial areas, existing residential areas, and in "fill-in" developments. In new residential developments (defined therein as "extensions"), they allow either "cluster boxes" or curbside boxes; however, the Town of Simmesport's policies encourage traditional door to door delivery for "fill-in" developments and "cluster boxes" for "extensions", while "curbside boxes" are uniformly discouraged.
6. *Shrubbery and landscaping.* With approval of the appropriate official of the Town of Simmesport, shrubbery, ornamental plants, or other organic landscaping material may be authorized in the rights-of-way adjacent to parking lots, places of businesses, residences, and the like. Open fields and unoccupied lots with haphazard growths of plants and trees are not to be considered as containing landscaping material.
7. *Debris and leaves on banquettes, sidewalks and in ditches.* Any trash, leaves, refuse, debris, litter, weeds or growths, construction debris or any other discarded substances which may interfere with proper drainage or serve as a breeding place for vermin or insects or which otherwise constitutes a public nuisance is considered a right-of-way obstruction subject to the requirements of this section.
8. *Removal of obstructions.*
  - a. Structures larger than temporary yard signs and posters which illegally occupy public rights-of-way or public property, may be removed by the Town of Simmesport according to the *Enforcement* provisions of this chapter.
  - b. Temporary signs, notices or posters, which are defined by law as litter, may be removed without notice, pursuant to litter regulations in *Litter* provisions of this chapter.
  - c. Abandoned vehicles may be removed from rights-of-way or from public property according to provisions in *Junk and Discarded Materials including Wrecked Vehicles* provisions of this chapter.
  - d. Any trash, leaves, refuse, debris, litter, weeds or growths, construction debris or any other discarded substances which have accumulated in ditches or drainage facilities, having been deposited there by abutting property owners or having washed into the rights-of-way from known locations on abutting private property may be removed by the Town of Simmesport according to the *Enforcement* provisions of this chapter.

Commerce in Public Places

All commercial activities must be conducted according to this section.

1. *Open exhibition of goods and merchandise.*
  - a. The placing of merchandise, goods, furniture, boxes, or other objects in public rights-of-way or on public property to conduct business is prohibited.
  - b. The retail sales of merchandise shall not be conducted in the open or in parking lots; however, the outdoor display of goods for sale by otherwise lawfully operating commercial establishments is permitted provided that the display occupies available space in excess of required parking spaces as required by law or regulations.
2. *Permanent yard sales.*
  - a. No owner or occupant of property in the Town of Simmesport shall conduct a permanent garage sale or yard sale.
  - b. For purposes of this section, a garage or yard sale is defined as the sale of items by a person or persons not possessing a valid occupational license as a retailer.
  - c. For purposes of this section, permanent is defined as:
    - i. Having a duration in excess of 72 hours;
    - ii. Having regularly scheduled hours of operation each day for more than three days; or
    - iii. Having regularly scheduled days of operation each week for more than two weeks.
3. *Farmers and peddlers.*
  - a. Hawkers and peddlers, as regulated by R.S. 33:4832 through 33:4835, are required to meet the requirements as set forth in this section.
  - b. All hawkers or peddlers must obtain a certificate of occupancy for any fixed location at which they intend to conduct business.
  - c. Farmers selling their own, raised produce are not exempt from the normal occupational license or other requirements of the Town of Simmesport; however, if said farmers are selling their own, raised produce, conduct such business in locations authorized by the town, the occupational license fee may be waived.

Illegally parked or abandoned vehicles

It shall be unlawful for any person, corporation, or entity to park, station, or abandon any automobile or other vehicle in thoroughfares, traffic lanes, or access lanes such as driveways, or in loading, reserved or otherwise restricted zones, "no parking" areas, or public carrier stands as established by this Code or on property owned by another person, corporation, or entity unless authorized by that owner or person in control of said property.

1. *Seizure and recovery of illegally parked vehicles:*
  - a. The town may take into custody any vehicle found to be illegally parked according to section 15-10 of this Code or "abandoned" on public or private property as defined in this Code.
  - b. The owner of said vehicle may regain possession by paying all costs incurred by the town for removing the vehicle to the place of holding and all other costs incurred during the period of holding not to exceed \$30.00.
  - c. All funds received from seizures under the authority of this section shall be deposited into the general fund of the Town of Simmesport.
2. *Abandoned vehicles:*
  - a. Whenever any motor vehicle has been determined to be "abandoned" in rights-of-way or on public property or on the private property of another person without authorization, notice shall be sent by registered letter, return receipt requested, to the owner of said vehicle at his last known address informing him to remove said vehicle within ten working days from the date of receipt of notice.
  - b. The town shall notify the owner of said vehicle that, in lieu of removal, said owner may remit \$15.00, together with a completed certificate of authority authorizing the town to remove and dispose of the vehicle. Said certificate of authority shall be on a form prescribed and furnished by the Town of Simmesport and shall be forwarded to the owner along with a self-addressed return envelope.
  - c. If the abandoned motor vehicle is not removed by the owner within ten working days after receipt of the notice and the town has not received the \$15.00 disposal fee, the town shall:
    - i. Remove the abandoned vehicle forthwith to a place of holding notifying the owner (by registered or certified mail, return receipt requested) within ten days of its seizure and impending disposal; and,
    - ii. Assess the owner a \$20.00 penalty to be remitted within 30 days, notifying said owner that failure to pay the penalty will result in notification to the Louisiana Department of Motor Vehicles which will revoke the owner's driver's license and/or the owner's motor vehicle registration.
3. *Disposal of unclaimed vehicles:*
  - a. Vehicles which remain in the possession of the Town of Simmesport after three months shall be considered public property and may be disposed of as follows:
    - i. The town shall send a registered or certified letter, return receipt requested, to the owner with notice of its intent to sell said vehicle to the highest bidder and the scheduled date of the intended sale unless said owner reclaims the vehicle paying all costs for seizure and storage.





3. As an alternative to removal and recovery actions or an order to do so by the town, the offending material in violation of this section may be enclosed within a board fence, solid wall, or other structure so as to render it completely obscured from public view.
  - a. This provision applies to otherwise lawfully conducted auto repair, auto salvage, or storage businesses, appliance repair businesses, or any other business which may accumulate materials or parts which may protuberate beyond the buildings or structures within which the business is generally conducted.
  - b. The maximum height of such enclosing fence or structure shall be 15 feet.
4. Material in violation of this section, whether or not enclosed within a fence or structure, shall not be allowed to become breeding places or habitat for rodents, snakes, insects, or any other vermin which may become a hazard to the health and safety of citizens.

Noxious weeds and growths.

A. *General provisions:*

- 1) It is unlawful for any person, corporation, or agency to allow the growth or accumulation of noxious weeds or grass or other deleterious, unhealthful, or noxious growths on any lot, place, area, or on any unused portion of any lot or area, or on any banquette or sidewalk abutting such lot or area within the Town of Simmesport.
- 2) The charges, costs, and expenses incurred by the Town of Simmesport in enforcing the requirements of this section shall, to the extent of the actual costs thereof, be a charge, costs, or expense of the property abutting the sidewalk or banquette or of the lot, place, or area, and the owner thereof, as shown on the last assessment roll of the Town of Simmesport.

B. *Notice to property owner:*

- 1) Before the cutting, destruction, and/or removal of noxious weeds or grass, or other deleterious, unhealthful, or noxious growths is undertaken, the owner of the lot, place, or area, or the owner of the abutting property where the weeds or growths are to be removed, as shown on the last assessment rolls of the Town of Simmesport, shall be notified and given at least ten days to do the work himself.
- 2) Said notice may be given to the owner by registered mail, addressed in accordance with the tax rolls of the town or by advertisement in the official journal of the Town of Simmesport for two consecutive issues.

C. *Multiple cuttings:*

- 1) If the property owner liable has been notified pursuant to this section at any time during the immediately preceding six months and has failed to do the work himself after opportunity to do so, the Town of Simmesport may undertake the cutting, destruction, or removal of noxious weeds or

- grass, or other deleterious, unhealthful, or noxious growths without notice on a monthly basis.
- 2) Prior to undertaking a series of cuttings pursuant to this subsection, the town shall file and record an affidavit, signed by the mayor at his administrative offices which includes the following:
    - i. A description of the property sufficient to reasonably identify it.
    - ii. A photograph of the property sufficient to reasonably identify its unsafe or unsanitary condition and to justify the necessity for cutting, destroying, or removing weeds, grass or other noxious growths; and
    - iii. A statement that the property owner liable has within the last six months failed to do such work after notification and opportunity to do so pursuant to subsection (b) of this section.

### Litter

- A. *Litter in public places.* No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in authorized private receptacles intended for collection.
  - 1) Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
  - 2) No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.
  - 3) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the town shall keep the sidewalks in front of their businesses and their premises free of litter.
  - 4) No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
  - 5) No person shall throw or deposit litter in any stream, lake, fountain, pond, or any other body of water in a park or elsewhere within the town.
- B. *Litter on private property.*

- 1) No person shall throw or deposit litter on any private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.
- 2) The owner or person in control of any private property shall comply with the litter container requirements in the *Solid Waste, Containers* section of this chapter concerning the number, placement, and marking of litter receptacles in their parking lots.
- 3) The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

C. *Litter deposited from vehicles.*

- 1) No person, while a driver or passenger in a motor vehicle, shall throw, deposit, drop or dump litter upon any street or public place within the town or upon private property.
- 2) If the throwing, dumping, or depositing of litter was done from a motor vehicle, except a bus or large passenger vehicle or school bus, all as defined by R.S. 32:1, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the motor vehicle.
- 3) No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loads as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

D. *Hazardous liquid leakage.*

- 1) No person shall operate, stop, station, or stand any vehicle while the carburetor, tank, or other appliance for containing oil or gasoline is in such condition as to permit oil or gasoline to run, leak, drip or fall upon any street or alley or upon the property of another without authorization.
- 2) No person shall deposit on public rights-of-way or on private property any hazardous liquids such as gasoline, oil, diesel fuel, solvents, or other dangerous chemicals or allow them to leak out of proper storage containers where they may be a hazard to the public.

*Removal of Dangerous Structures and Buildings*

If, in the opinion of the Town Council of Ball, a building or structure is in a dilapidated and dangerous condition which endangers the public health, safety, or welfare, it may be condemned, and the Town of Simmesport may cause it to be demolished or removed.

1. *Condemnation notice and hearing.* Before the Town Council of Ball can condemn a building or structure and cause it to be demolished and removed, the following actions must be taken:
  - a. There must be submitted to the mayor a written report recommending the demolition or removal signed by the building inspector or other official of the town authorized to make such recommendations. Said determination should be made according to guidelines in section 308.1 of the Southern Standard Housing Code.
  - b. The mayor shall serve notice on the owner of the building or structure requiring him to show cause at a meeting of the Town Council of Ball, regular or special, why the building or structure should not be condemned. The date and hour of the meeting shall be stated in the notice, which shall be served at least ten days prior to the date of the hearing.
  - c. If the owner is absent the state or unrepresented therein, is a minor who has no tutor, or is an interdict who has no curator, then the notice shall be served upon the occupant of the building or structure, if any, and upon an attorney at law appointed by the mayor to represent the absentee owner. Domiciliary service may be made as in ordinary cases.
  - d. In case of grave public emergency where the building or structure is such as to cause immediate loss or damage to person or property, the Town Council of Ball may condemn the building or structure after 24 hours' notice served upon the owner of his agent or the occupant, if any, and any attorney at law appointed to represent an absentee owner.
2. *Filing of notices.* Notices served pursuant to the requirements of this section shall be filed with the recorder of mortgages where the property is located. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.
3. *Time limits for owner removal or repair and performance guarantees.*
  - a. The Town Council of Ball may specify a period of time within which the owner or his agent must complete the demolition and removal. Owner demolition or removal of the building or structure may be guaranteed, by order of the town council, with a written contract and performance bond.
  - b. If repairs will correct the dilapidated, dangerous, or unsafe condition of the building or structure, the Town Council of Ball may grant the owner the option of making such repairs. In such case:
    - i. The general nature or extent of the repairs to be made, the amount of time allowed for the repairs, and the defects to be corrected, shall be specified in the decision to the Town Council of Ball.

- ii. The owner or his agent must execute a written contract with the town obligating himself to have the work done within the required time period and said contract is on file with the town; and
  - iii. The owner has posted a bond sufficient to guarantee performance of the contract.
- 4. *Abatement actions and recovery of costs.*
  - a. In cases where the owner fails to comply with the condemnation orders of the Town Council of Ball and fails to appeal from the decision of the Town Council of Ball within the required time to the district court, then the town may undertake to secure, demolish and/or remove it, after notice of the time and date the work will begin is given to the owner, his agent, the occupant of the structure, if any, or the attorney at law appointed to represent an absentee, minor, or interdicted owner.
  - b. The Town of Simmesport may recover the costs it incurred for maintenance of the immovable property and the buildings and structures on it, for securing, demolishing and/or removing any condemned structures or buildings, for all attorney's fees related to the identification, location, and notification of the owner or other responsible party, for collection of costs.
    - i. The term "maintenance" shall include but not be limited to grass cutting, weed abatement, and trash and garbage removal.
    - ii. The term "secure" shall mean the closing of the building or structure by placing or attaching of boards or other materials over openings such as cracks, doors, windows, and other means of entrance in order to prohibit persons from entering the building or structure and in order to protect it from further deterioration.
  - c. In order to recover these losses the town must notify the owner, his agent, or the attorney representing the absentee owner of the amounts owed and the time limit allowed for payment according to the last known address listed on the tax rolls of Avoyelles Parish.
  - d. If the owner fails to reimburse the town for costs incurred, the town shall have a privilege and lien upon the property and improvements to be collected as any ordinary property tax lien and subject to the same civil penalties for delinquencies.
    - i. The town may recover interest on amounts secured by the lien not to exceed the rate of legal interest provided in Civil Code Article 2924 computed from the date of recordation of the lien until paid. Said lien shall prime all other liens and privileges against the property.
    - ii. If property subject to a lien under this section is owned in indivision with the owners listed separately by the tax assessor, then the town shall notify each owner in indivision of his liability under this section. Each proportionate liability shall be collected and/or released separately by the town

## NUISANCES

### LITTERING

#### Generally

##### Policy

It is the policy of the municipality to provide, within constitutional limitations, for littering throughout the municipality.

##### State Sanitary Code Adopted by Reference

The sanitary code of the state, 1963 edition, as amended and revised, prepared and promulgated by the state board of health, insofar as the provisions thereof are applicable to municipalities in the class of the municipality, is hereby adopted by reference. Three copies are on file in the office of the town clerk and are adopted and incorporated as fully as if set out at length herein. Any person violating the provisions thereof shall be punished as provided in the *General Penalties* section of the Code of Ordinances of the Town of Simmesport. Said sanitary code shall be cumulative of, and in addition to, the provisions of this article.

##### Special Court Costs

Whoever violates the provisions of this article shall pay special court costs of \$100.00 in lieu of other costs of court and the special court costs shall be disbursed as follows:

1. Twenty dollars shall be paid to the judicial expense fund for that judicial district, or to the justice of the peace or the city court, as the case may be.
2. Twenty dollars shall be paid to the office of the district attorney, to the constable, or to the municipal prosecuting attorney, as the case may be.
3. Ten dollars shall be paid to the clerk of the district court, or to the justice of the peace or the city court, as the case may be.
4. Twenty-five dollars shall be paid to the state treasury for credit to the "Keep Louisiana Beautiful" fund.
5. Twenty-five dollars shall be paid to the law enforcement agency that issued the citation.

##### Inference of littering; separate violations; additional penalties

- A. A person violating any of the provisions of this article shall be cited for the offense by means of a citation, summons or other means provided by law.
- B. A person may be found guilty or held liable and fined under this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

- C. When litter disposed in violation of this article is discovered to contain any article, including but not limited to letters, bills, publications or other writings, which display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.
- D. For the purposes of this article, each occurrence shall constitute a separate violation.
- E. In addition to penalties otherwise provided, a person convicted or held liable under this article shall:
  - 1) Repair or restore property damaged by or pay damages for any damage arising out of the violation of this section.
  - 2) Pay all reasonable investigative expenses and costs to the investigative agency.
- F. Notwithstanding any provision to the contrary, this article shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and transportation of solid waste, construction or demolition debris or wood waste, as such terms are defined by the rules and regulations of the department of environmental quality, occurring in the course of servicing scheduled pickup routes pursuant to commercial or local government contracts or enroute to an authorized pickup station, transfer station or disposal facility.

### **Duty of Owner or Tenant of Premises**

#### **Unsanitary Premises**

- A. The owner, tenant and/or grantee of rights-of-way of any property or premises in the municipality, who shall permit the accumulation of garbage, litter, rubbish, refuse, junk, filthy or offensive matter thereon, shall be deemed guilty of maintaining a nuisance.
- B. When such a condition exists in the municipality, the owner, tenant and/or grantee shall be notified by certified mail advising him of the condition of the premises and giving him ten days within which to remove the accumulation of garbage, litter, rubbish, refuse, junk, filthy or offensive matter.
- C. If the owner, tenant and/or grantee fails to comply with the notice within ten days, the municipality, through the office of the town attorney, shall be authorized to file a civil action in the town court ordering the owner, tenant, and/or grantee to appear and show cause, if any he can, why he should not be ordered to remove the accumulation of garbage, litter, rubbish, refuse, junk, filthy or offensive matter from the premises.
- D. In the event the court orders the owner, tenant and/or grantee to remove the garbage, litter, rubbish, refuse, junk, filthy or offensive matter from the premises and the owner, tenant and/or grantee fails to comply with the orders of the court, upon application of the municipality, the court shall find

the owner, tenant and/or grantee in contempt of court and in addition to any other penalties prescribed by the court shall grant to the municipality a judgment sufficient to defray the actual costs to the municipality for the removal of the accumulated garbage, litter, rubbish, refuse, junk, filthy or offensive matter.

### **Prohibited Conduct**

#### *Placing in receptacles to prevent scattering*

- A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place except in public receptacles, or in authorized receptacles for collection.
- B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

#### *Sweeping litter into gutters; cleanliness of sidewalks*

No person shall sweep into or deposit in any gutter, street or other public place, the accumulation of litter from any building or lot from any private or public sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free from litter.

#### *Merchant's duty to keep sidewalks free of litter.*

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep all premises, including sidewalks, service alleys and parking area of their business, free of litter.

#### *Litter thrown from vehicles*

- A. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place, or upon private property.
- B. If the litter is disposed from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined in R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

#### *Truck loads causing litter.*

No person shall drive or move any truck or other vehicle unless the vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or



move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

*Litter in parks.*

No person shall throw or deposit litter in any park except in public receptacles and in a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

*Litter in lakes and fountains.*

No person shall throw or deposit litter in any fountain, pond, lake, stream, ditch, canal or any other body of water in a park or elsewhere.

*Litter on occupied private property.*

No person shall throw or deposit litter on any occupied or unoccupied private property whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in any manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, sidewalk or other public place or upon any private property.

*Litter on vacant lots.*

No person shall throw or deposit litter on any open or vacant private property whether owned by the person or not.

*Failure to comply.*

Whoever violates the provisions of the sections under this division shall:

1. Upon first conviction, be fined \$250.00 and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.
2. Upon second conviction, be fined \$500.00 and sentenced to serve 16 hours of community service in a litter abatement work program as approved by the court.
3. Upon third or subsequent conviction, be fined \$500.00, sentenced to up to 60 days in jail, have his motor vehicle driver's license suspended for one year, and be sentenced to serve 80 hours of community service in a litter abatement work program as approved by the court, or all or any combination of the penalties provided by this subsection.

Simple littering.

- A. No person shall dispose of, or create a condition that the person knew or should have known was likely to result in the disposal of, litter upon any public place in the state, upon private property in the state not owned by him, upon property located in a rural area in the state not owned by him, or in or on the waters of the state, whether from a vehicle or otherwise, including, but not limited, to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley.
- B. Persons found liable under the provisions of this section shall be assessed the following civil penalties and costs:
  - a. For a first violation, such person shall either be fined \$75.00 or given the option to perform eight hours of community service in a litter abatement work program in lieu of the assessed \$75.00 fine.
  - b. For a second and each subsequent violation, such person shall either be fined \$500.00 or be given the option to perform 16 hours of community service in a litter abatement work program in lieu of the \$500.00 fine.

**NOXIOUS GROWTHS****Growths and accumulations on premises.**

It is declared to be a nuisance and unlawful for the owner or possessor of any lot, place or area within the municipality to permit or allow the growth or accumulation of junk, debris, rubbish, noxious weeds, grass or other deleterious, unhealthful or noxious growth or things on said lot, place or area.

**Cutting or removal by municipality and assessing cost authorized.**

The municipality, through its designated employees or agents, is authorized to cut, destroy or remove weeds, grass or other unhealthful or noxious growths or rubbish, garbage, trash or other unhealthful accumulations, on any lot, place or area within the municipality and to assess the cost thereof against the owner of the property after due notice and in the manner hereinafter provided.

**Notice to owner; failure to comply.**

Before proceeding to do work authorized by this Section or to have same done, the mayor shall give notice to the property owner by either advertisement for two consecutive days in the official journal of the municipality within which the subject property is located or by certified notice to the owner of said lot or place at his last known address. The notice shall request that the property owner cut, destroy or remove said weeds, grass, other growth, rubbish, garbage, trash or other unhealthful accumulation, or to have same done within ten days from date of the mailing of the notice. If at the end of said period of time said weeds, grass, other growths, rubbish, garbage, trash or other unhealthful accumulations have not been cut or removed the

mayor is authorized to have same done and to charge the cost thereof against the property as hereinafter provided.

**Penalty; assessing costs; lien on property.**

- A. Whoever violates the provisions of this article shall be cited and required to appear, on the first offense, before the town mayor's court, and if convicted, the violator shall be fined not more than \$500.00, or imprisoned for not more than 60 days, or both.
- B. Upon completion of the cutting or removing of said weeds, grass, growths, rubbish, garbage, trash or other accumulations, as above described by the municipality, the costs thereof shall be assessed against the owner of the property involved and which costs shall constitute a lien upon said property and shall be prior in rank to mortgages, vendors privileges and all other liens except tax liens.

**Filing affidavit of lien; relief of property therefrom.**

The mayor is authorized to make an affidavit as to the cost of cutting or removing the weeds, grass or other noxious growth, or rubbish, garbage, trash or other unhealthful accumulations, above described giving therein the name of the owner of the property, the description of the property sufficient to reasonably identify it, and a photograph of the property sufficient to reasonably identify its unsafe or unsanitary condition and to justify the necessity for cutting, destroying or removing weeds, grass or other noxious growths. The affidavit shall be filed in the office of the clerk of the court of the parish so as to preserve the lien above mentioned. The owner who desires to relieve this property of said lien must not only pay the costs above mentioned but also the costs of filing and recording said affidavit.

## SOLID WASTE

### IN GENERAL

**Definitions; specific to this Section**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Apartment* means a living or residential unit within an apartment house containing the usual and ordinary kitchen facilities.

*Apartment house* means any building containing in excess of four separate residential units the proprietors of which let the units out for rent for the purpose of living dwellings.

*Bags* mean plastic sacks designed to store refuse with strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 35 pounds.

*Bulky waste* means stoves, refrigerators, water tanks, washing machines, furniture and other like waste, other than construction debris, dead animals, hazardous waste or stable matter, with weights or volumes greater than those allowed for bags or bundles.

*Bundle* means tree, shrub and brush trimmings, or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length and 50 pounds in weight.

*Commercial refuse* means all bulky waste, construction debris, garbage, rubbish and stable matter generated by a producer at a commercial unit.

*Commercial unit* means all premises, locations or entities, public or private, except residential units, requiring refuse collection within the corporate limits of the municipality, including apartment houses whose proprietors choose to contract private haulers to pick-up the garbage of all residential units located thereon.

*Construction debris* means waste building materials resulting from construction, remodeling, repair or demolition operations, including refuse created at a residential unit as a result of contractual services.

*Container* means metal receptacle designed to be lifted and emptied mechanically for use only at commercial units.

*Dead animals* mean animals or portions thereof having expired from any cause, including dogs, cats or other animals, except farm stock, livestock or those slaughtered or killed for human use. For the purposes of this chapter, the terms "farm stock" and "livestock" mean, but are not limited to, cattle, calves, horses, mules, burros, asses, swine, sheep, goats, farm-raised cervidae species, farm-raised ratite species, and domesticated fish or other animals which are grown, managed, harvested or marketed as a cultivated crop.

*Garbage* means every accumulation of waste that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter, including used tin cans and other food containers and all easily putrescible or easily decomposable waste, animal or vegetable matter, which is likely to attract animals or insects; except any matter included in the definition of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter. This also includes dead animals as defined in this section.

*Hazardous waste* means any waste, or combination of wastes, which because of its quantity, concentration, physical or chemical characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Such definition shall be applied only to those wastes identified and designated as such by the state Department of Environmental Quality, consistent with applicable federal laws and regulations.

*Litter* means garbage, refuse, and rubbish, as defined herein, and all other waste materials which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare, including metals and wood materials, not subject to public or private use.

*Producer* means an occupant of a residential unit who generates refuse.

*Putrescible wastes* means decomposed, rotten or decaying animal or vegetable matter.

*Refuse* means waste generated by a producer at a residential or commercial unit.

*Residential refuse* means all garbage, rubbish and bulky waste generated by a producer at a residential unit.

*Residential unit* means a single-family detached, duplex, triplex or fourplex dwelling within the corporate limits of the municipality occupied by a person or groups of persons. A residential unit shall be deemed occupied when any one of the municipality's utility services are being supplied thereto.

*Rubbish* means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes, boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter. All rubbish shall be securely bagged or bundled, when feasible. Exceptions must be approved in writing by the sanitation supervisor and/or mayor.

*Stable matter* means all manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

**Unlawful dumping.**

- A. It shall be unlawful for anyone to dump, drop or place garbage, trash, refuse, waste, debris, limbs, trees, dead animals, scrap automobiles, scrap parts or any other discarded article or thing upon any private property anywhere in the municipality without first obtaining the consent of the owner of said private property.
- B. It shall be unlawful for anyone to dump, drop or place garbage, trash, refuse, waste, debris, limbs, trees, dead animals, scrap automobiles, scrap parts, litter or any other discarded article or thing upon the public roads and streets of the municipality upon the drainage ditches paralleling the said public roads and streets of the municipality, or anywhere upon the right-of-way or servitude for said public roads and streets in the municipality.

**Unlawful establishment of a dump.**

- A. It shall be unlawful for any person to establish or permit the dumping or storing of any waste materials, trash, refuse, garbage or any other kind of debris any place within the municipality, which may be viewed from a public street, with the exception of containers designed for such purposes or the officially designated city dump.
- B. Any person establishing a dump or permitting a dump, as prohibited in subsection (a) of this section, within the municipality shall be given written notice by the said municipality by registered or certified mail, to cease and desist from using the said property or allowing the said property to be used as a dump and be given 30 days from receipt of said notice for removal of the material comprising the dump, or show cause at the next regular meeting of the mayor and board of aldermen why the notice should not be honored and complied with. The mayor and board of aldermen may, in their discretion, extend the time for removal of said material or revoke the notice for good cause shown.

**Violations**

Any person who violates the provisions of this chapter, shall be punished according to the *General Penalties* of the Code of Ordinances of the Town of Simmesport.

**COLLECTION AND DISPOSAL****Containers**

- A. It shall be unlawful for any person operating a business of commercial establishment to dump or store any waste materials, trash, refuse, garbage or any kind of debris any place within the municipality except within containers designed for such purposes or at the officially designated dump in and for the municipality.

- B. Each business or commercial establishment shall keep and maintain a container as its place or business of a sufficient size to receive and hold all waste materials, trash, refuse, garbage and debris generated and discharged by said establishment. Such container shall be so designed, constructed and maintained as to prevent accidental discharge, release or escape of the contents thereof by the blowing of wind or otherwise and shall be maintained out of view from the public roadway, situated behind a building and within a permanent fence or barrier which shall have a minimum of three sides and shall be at least six feet in height and shall be constructed in such a manner so as to obscure all containers confined therein from the view of all passersby. The fence shall therefore be constructed of wood or cinder block. Chainlink material is inadequate to promote such an obscurement.
- C. Violators of the provision of this section shall be punished according to the general penalties described in the *General Penalties* section of the Town of Simmesport Code of Ordinances.

## **UNIFORM BUILDING CODE**

### **SECTION 1. TITLE**

The Title of this Ordinance shall be the “Uniform Building Code for the Town of Simmesport”.

### **SECTION 2. CODE OF EVIDENCE ADOPTED.**

Pursuant to La. R.S. 33:1368 and La. R.S. 40:1730.23, The Louisiana Uniform Building Code in current form and as may be amended from time to time are incorporated herein by reference thereto as fully and completely as though set forth herein in its entirety except insofar as a particular provision is incompatible with the general nature and organization of, or special procedures established or authorized by law for this court.

### **SECTION 3.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

**SECTION 4.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

**SECTION 5.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

**SECTION 6.**

Copies of the applicable provisions of this Criminal Code, as adopted, may be referenced and accessed at <https://legis.la.gov/Legis/LawSearch.aspx>

**SECTION 7.**

The repeal of any provision of any section, paragraph, sentence, clause, phrase, or other provision or part of any of the Statutes or Titles adopted herein by reference and made part of this Code shall not affect any offense committed or act done prior to the effective date of such repeal, or any penalty or forfeiture incurred for an offense committed under the provision repealed or any prosecution or suit pending at the time of such repeal for an offense committed under the provisions repealed.

**FEES FOR PRODUCTION OF PUBLIC RECORDS**

**Whereas**, the Town of Simmesport is committed to providing every person with open, convenient, and no-cost or low-cost access to public records as required by the Louisiana Constitution and the Louisiana Public Records Act; and

**Whereas**, this policy is intended to maximize transparency, minimize barriers to access and establish fees for the public, press, etc.; and

**Whereas**, Louisiana Constitution Article XII, Section 3 provides that no person shall be denied the right to observe the deliberations of public bodies and examine public documents except in cases established by law.

**Now, therefore, be it ordained** by the Town Council of the Town of Simmesport that:



**SECTION 1**

All of the afordescribed “Whereas” clauses as adopted as part of this ordinance.

**SECTION 2**

Louisiana Public Records Law provides that:

- A. All records, including digital database records, are public records except as specifically provided by the Louisiana Constitution or the Louisiana Public Records law.
- B. A “public record” is all books, records, writings, accounts, letters and letter books, maps, drawings photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including electronically stored information or information contained in databases or electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, except as otherwise provided in Title 44 of the Louisiana Revised Statutes or the Louisiana Constitution. Act 770 of the 2022 Regular Session clarified that e-records are indeed public records.
- C. The “custodian” means the public official or head of any public body having custody of or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.
- D. The “public body” includes any branch, department, office, agency, board, commission, district, governing authority, political subdivision, or any committee, subcommittee, advisory board, or taskforce thereof including a public or quasi-public nonprofit organization designated as an entity to perform a governmental or proprietary function or an affiliate of a housing authority.
- E. The “custodian” shall present any public record to any person of the age of majority who so requests. The custodian shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person and may require the person to sign a register and shall not review, examine, or scrutinize any copy, photograph, or memoranda in the possession of any such person, and shall extend to the person all reasonable comfort and facility for the full exercise of the right.
- F. The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.

- G. No fee shall be charged to any person to examine or review any public records and no fee shall be charged for examination or review to determine if a record is subject to disclosure, except as may be determined by a court of competent jurisdiction.
- H. It shall be the duty of the custodian of such public records to provide copies to persons so requesting. The custodian may establish and collect reasonable fees for making copies of public records, which may include the transmission of electronic copies of public records. The custodian may request payment of fees in advance of production. Copies of records may be furnished without charge or at a reduce charge to indigent citizens of this state.
- I. In any case in which a record is requested and a question is raised by the custodian of the record as to whether it is a public record, such custodian shall within five (5) days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record, notify in writing the person making such request of his determination and the reasons therefor. Such written notification shall contain reference to the basis under law which the custodian has determined exempts a record, or any part thereof, from inspection, copying, or reproduction.
- J. If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of it being in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three (3) days, exclusive of Saturdays, Sundays, and legal public holidays, for the exercise of the right granted under the Louisiana Public Records Act and the Louisiana Constitution.

### **SECTION 3**

All of the foregoing items are established as the Bill of Rights of the public to access the public records of the Town of Simmesport. Public records shall be, when possible and to the extent practicable, online.

- A. No person shall be charged a fee for copies of public records except pursuant to this fee schedule adopted by ordinance.
- B. Any document immediately available for review shall be produced upon request without the necessity of scheduling a later appointment.
- C. A person who makes a valid public records request to inspect documents and at the time of inspection uses a person hand-held scanner or mobile device to copy said public records shall not pay a fee for each page copied.
- D. All records produced in digital format for viewing shall be available immediately for copying by electronic means subject only to the cost of the digital storage device (i.e. USB drive, CD, etc.), with the exception of maps.

- E. The format of the production of the documents (print, digital, etc.) shall be the choice of the requestor so long as the document already exists in the possession of the custodian in that format.
- F. The custodian may request payment of fees in advance of production if the fees exceed twenty-five dollars (\$25.00) per the schedule adopted by ordinance or if the requesting party has an unpaid balance due for a prior public record request.
- G. With regard to law enforcement records, and initial arrest report is a public record, which shall set forth:
  - a. The narrative description of the alleged offense, including appropriate details thereof as determined by the law enforcement agency;
  - b. The name and identification of each person charged with or arrested for the alleged offense;
  - c. The time and date of the alleged offense;
  - d. The location of the alleged offense;
  - e. The property involved;
  - f. The vehicles involved;
  - g. The names of the investigating officers;
  - h. Nothing herein shall be construed to require the disclosure of information which would reveal undercover or intelligence operations.

#### **SECTION 4**

The Fee Schedule and fees to be charged for copies of public records pursuant to this Section are intended to cover the cost of digital storage devices (i.e. USB drive, CD, etc.) and reproduction only and shall not include any overhead charges.

- A. The cost per page (letter or legal) for printed black/white documents, hard copies of documents, or records scanned for electronic production shall be fifty cents (\$0.50) per page for the first fifty (50) pages and One Dollar (\$1.00) per page thereafter.
- B. The cost per page (letter or legal) for printed color documents, hard copies of documents, or records scanned for electronic production shall One Dollar (\$1.00) per page.
- C. There shall be no fee above and beyond those fees noted in this Section for the electronic transmission of records.
- D. Copies of documents which are too large to be emailed (usually 25 MB or greater) or uploaded to a document sharing site due to the media format or data size, can be placed on a digital storage device (i.e. USB drive, CD, etc.) for a twenty dollar (\$20.00) fee.
- E. The Town of Simmesport, further, adopts the fee schedule set forth by the Louisiana Department of State as it applies to the production of public records as follows:
  - a. In addition to the fees set forth herein, the Town of Simmesport shall charge the actual cost s incurred for the mailing of any records produced, and in addition to the fees set forth herein the following fees shall apply:

Item	Fee
Express Delivery (Cost per Package)	Actual Cost
Non-sufficient Funds Charge	\$25.00
Photocopies (Per Page)	\$0.25
Postage (Per Package)	Actual Cost
Public Records Request Fee (Certify Public Records) (Cost per Certification Form)	\$20.00
Public Records Request Fee (Cost per page up to 8 ½ x 14) (Two sided copy is charged as two pages) Including facsimile, electronic production, and email of documents	\$0.25
Public Records Request Fee (Cost Per Page for Printed Copy Greater than 8 ½” x 14) (Two sided copy is charged as two pages)	Actual Cost
Public Records Request Fee (Cost per page of production in addition to charges for device)	\$0.25
Public Records Request Fee (Cost per Page for Electronic File Emailed)	\$0.25

- F. The Town of Simmesport shall not use media or digital devices provided by the requestor to comply with a public records request so as to avoid malicious threats to the Town of Simmesport’s computer network, infrastructure, and devices.
- G. At the direction of the requestor and to avoid the burdensome costs for requests that may generate a large responsive production, the custodian shall work, in good faith, with the requestor to narrow the scope of the request.
- H. There shall be no charge for viewing a record or taking a photo of a record utilizing a personal handheld scanning device or mobile telephone.
- I. The fees shown are for costs associated with reproduction only and shall not include any overhead charges for employee time, redacting of documents, or legal costs.
- J. The Town of Simmesport will not print hard copies of Maps for the public, due to costs, and because the Town of Simmesport does not have the equipment necessary to print maps. Requests for maps shall be handled as follows:
  - a. Maps can be sent in electronic format (by email) at not cost. The requestor would be responsible for printing the map on their own. If the map is to be placed on a digital storage device (i.e. USB drive, CD, etc.), there will be a fee of Twenty Dollars (\$20.00).
  - b. The maps are available for in-person inspection at the Town of Simmesport Town Hall. The requestor, while inspecting, may use their handheld scanner or mobile devices to take photos of maps at no cost.

**SECTION 5**

This fee schedule shall be as reflected in any pertinent documents which are attached hereto and made part hereof and filed with the Town Clerk of the Town of Simmesport.

**SECTION 6.**

The sections, paragraphs, sentences, clauses, and phrases of the Statutes or Titles adopted herein by reference and made part of this Code shall be severable. If any section, paragraph, sentence, clause, or phrase of any of the Statutes or Titles referenced herein is declared unconstitutional, illegal, or otherwise invalid by judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of the Statutes and Titles adopted herein by reference and made part of this Code.

**SECTION 7.**

All previous ordinances adopting and purporting to adopt by reference any previous municipal criminal code are hereby repealed and superseded.

**SECTION 8.**

This ordinance shall not affect or supersede any duly enacted ordinance of the Town of Simmesport that does not directly conflict with a provision of the Louisiana Revised Statutes adopted herein.

**SECTION 9.**

Not less than two copies of the most current version (in pamphlet form) of The Court Rules for the Municipal Court of the Town of Simmesport shall be permanently retained in the office of the Town Clerk, said copies to be made available for public inspection during regular office hours.

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**Now, Be it further ordained**, that this Ordinance, and each provision hereto, shall rescind, take precedence over, amend, supersede, and replace any other such ordinances that may have been adopted or that may be in effect as of the effective date of this Ordinance referencing the subject matter of this Ordinance without nullifying or compromising any act performed by an person duly authorized by any previously effective ordinance.

**Be it further ordained**, that this Ordinance, and the ordinances set forth herein *in globo*, shall be effective immediately upon adoption and upon the Mayor’s signature.

**Be it further ordained**, that Section designations and numbers have intentionally been omitted from this ordinance, and the individual ordinances titled and submitted in this Ordinance, *in globo*, shall be assigned and classified in the appropriate Titles, Sections, and Subsections of the Code of Ordinances for the Town of Simmesport.

**Be it further ordained**, that this ordinance was introduced through a Resolution of the Board of Aldermen of the Town of Simmesport during the regularly scheduled meeting of the Board of Aldermen on the \_\_\_\_ day of \_\_\_\_\_, 2023 by Alderman \_\_\_\_\_, with a second to the motion by Alderman \_\_\_\_\_, and the Board of Aldermen then passed the resolution introducing this Ordinance by no less than a majority vote.

**Be it further ordained**, that a public hearing having been duly held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the title read, and the ordinance considered, on motion by Alderman \_\_\_\_\_, seconded by Alderman \_\_\_\_\_, a record vote was had as follows:

	For	Against	Absent	Abstain
Alderman Glen Gautreaux				
Alderman Tiesha Kennedy				
Alderman Patrick Wright				
Alderman Sherman Bell				
Alderman Romaro Turner				

**Ordained** this \_\_\_\_ day of \_\_\_\_\_, 2023, at a duly called and announced meeting of the Board of Aldermen of the Town of Simmesport, at which a quorum was present and the vote of the Board of Aldermen recorded above.

\_\_\_\_\_  
Rev. Leslie Draper, III  
Mayor

\_\_\_\_\_  
Dacia Adams  
Town Clerk