

ORDINANCE NO. 10132020

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 070703 REGULATING THE KEEPING OF LIVESTOCK, ANIMALS, AND FOWLS WITHIN THE CITY OF KOSSE, PROVIDING FOR THE IMPOUNDING AND SELLING OF ANIMALS RUNNING AT LARGE; PROVIDING A PROHIBITION ON FEEDING FERAL OR STRAY ANIMALS; PROVIDING A PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; SPECIFICALLY REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH WHICH REGULATE THE KEEPING OF LIVESTOCK, ANIMALS, AND FOWLS.

WHEREAS, the City Council of the City of Kosse passed Ordinance No. 070703 regulating the keeping of livestock, animals, and fowls within the City of Kosse; and

WHEREAS, the City Council now finds it prudent and in the best interest of the City to amend that Ordinance; and

WHEREAS, the impoundment of dog section V will include the impoundment of all animals,

WHEREAS, the License Requirement is rescinded,

WHEREAS, the feeding of feral and stray animals within the City of Kosse has become a health and safety concern; and

WHEREAS, a municipal regulation to address this problem is in the best interest of the health, safety and welfare of the citizens of the City of Kosse; and

WHEREAS, the City Council of the City of Kosse is empowered by Chapter 822 of the Health and Safety Code, *Vernon's Texas Codes Annotated*, to enact ordinances to address this problem.

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

SECTION I. – KEEPING NOT TO BE NUISANCE

That it shall be unlawful for the owner, keeper, or person in charge of any animal, including but not limited to a horse, mule, jack, cow, cattle, hog, sheep, goat or Ratitae (such as ostriches, rheas, cassowaries, and emus) to allow or permit the same to run at large within the limits of the City of Kosse. Each such animal shall be kept in a stable, shed, pen or other enclosure, and every such stable, shed, pen or other enclosure wherever located within the City of Kosse for the keeping of such animals shall be distant at least fifty (50) feet from every building or structure used for sleeping, dining, and living, excluding the owner. The keeping of cattle, horses, mules, jacks, jennies, sheep, hogs, goats, turkeys, chickens, ducks, guineas, birds, pigeons, squabs, Ratitae (such as ostriches, rheas, cassowaries, and emus) and all other animals or fowl within the city in any enclosure or in such manner or under such conditions as to cause the spread of germs liable to produce disease, noxious odor or noise hazardous or dangerous to the public health, or which cause discomfort to the inhabitants of the locality wherein the same are kept, is hereby prohibited and declared to be a nuisance.

SECTION II. – PROXIMITY OF POULTRY ENCLOSURES TO DWELLING

No poultry or other domesticated fowl shall be kept in any enclosure, any part of which enclosure is within fifty (50) feet of any occupied dwelling or building, excluding the owner.

A. FOWLS, BIRDS

1. It shall be the duty of the person owning, or having within his management or control, any chickens, turkeys, geese, or other domestic fowl, to keep same enclosed upon his own premises in such manner that same cannot go upon the public streets, highways, alleys, or parkways of the city, or upon the private property of others.
2. It shall be unlawful for any person owning or having under his control or management any chickens, turkeys, geese or other domestic fowl, to allow same to run at large within the city.

SECTION III. – DOGS

- A. Definition: For the purpose of this Article, the following words and terms shall have the meaning ascribed to them in this section:

“Dog” shall mean the male and the female domesticated animal of the canine species:

1. “At Large” shall mean not under the control of the owner either by a leash, chain, cord, or other suitable material attached to a collar or harness, or not retained securely within an enclosure or fence.
 2. “Owner” shall mean any person owning, keeping, harboring, or having control or custody of a dog.
- B. Running at Large in Public Place Prohibited: It shall be unlawful for the owner of any dog to permit or allow such dog to run or be at large upon any public highway, street, alley, court, square, park, sidewalk, or any other public grounds or public property within the corporate limits of the city.
- C. Running at Large on Unfenced Land Prohibited: It shall be unlawful for the owner of any dog to permit or allow such dog to run or be at large upon any unfenced lot, tract, or parcel of land within the corporate limits of the city.
- D. Vicious/Dangerous Dog: Means a dog that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or commits unprovoked acts in a place other than an enclosure and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.
- 1, Determination That Dog Is Dangerous: If a person reports an incident, the animal control authority may investigate the incident. If after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.
 - 2, An owner, not later than 15 days after the date the owner is notified may appeal the determination of the animal control authority to the municipal court.

- 3, If the court shall determine that the dog is a vicious/dangerous dog, the court may order that such dog be kept in a secure locked enclosure, provide proof of liability insurance or financial responsibility, and provide proof of current rabies vaccination.

E. **PUBLIC NUISANCE**

Public Nuisance means any animal which:

1. Molests passersby or passing vehicles
2. Attacks other animals
3. Is repeatedly at large
4. Damages private or public property
5. Barks, Whines, or Howls in an excessive continuous or untimely fashion

F. **SANITARY CONDITIONS OF PENS/SHELTERS**

It shall be unlawful for any person to maintain any pen, enclosure, pound, or area for any animal in an unsanitary, offensive, or disagreeable manner. The keeper of any pen/shelter shall be responsible.

- G. **Providing Food, Water, and Shelter:** It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient and adequate food, water, and shelter. Dogs must be kept in a fenced yard or on a run. Dogs cannot be chained or staked in one location for more than three hours at a time. Food and water must be provided at all times. Shelter shall be provided so that an animal is not unnecessarily exposed to hot, stormy, cold or inclement weather.

SECTION IV – RABIES CONTROL

- A. **Vaccination of Dogs: Tag:** The owner of any dog over six months old is hereby required to have such dog immunized against rabies by means of an anti-rabies vaccine. The vaccine is to be administered by a duly licensed veterinarian. The veterinarian shall provide a metal tag bearing the date vaccinated.
- B. **Collar or Harness Required:** Vaccination tag must be attached to a collar or harness. It shall be unlawful for any person to maintain or keep a dog more than six months age on any premises within the limits of the city, unless such dog wears a collar or harness with a tag securely attached issued by a licensed veterinarian, within the current calendar year.

SECTION V – IMPOUNDMENT OF ANIMALS

- A. **Duty of Animal Control Officer:** It shall be the duty of the Animal Control Officer or any of his deputies or any city policeman on duty to seize and impound, subject to the provisions of this division, all animals found running at large in violation of this Code, whether in the immediate presence of the owner or custodian or otherwise.
1. A fine of up to \$500 can be assessed if it is deemed the owner or custodian of any animal failed to comply with this ordinance.

2. The Animal Control Officer shall notify the Municipal Court or Chief of Police to post notice of impoundment within 24 hours. Two notices shall be posted: one on the bulletin board at 103 N. Narcissus and one inside the City Office in full view of public
- B. Animal Which Has Bitten Persons May be Impounded: Whenever any person has been bitten by any dog or other domesticated animal, such animal shall be impounded and held for observation.
 - C. Observation for Impounded Animal: When any animal has been impounded under the provisions of this article, observations as deemed necessary by a licensed veterinarian will apply.
 - D. Unvaccinated/Impounded Animals: Animals will be kept three (3) days and if not redeemed will be sold or destroyed. It shall be the duty of the Animal Control Officer to keep all animals for a period of 3 days from the date of impounding.
 - E. Redemption of Unvaccinated Animal: The owner of any impounded animal which is unvaccinated against rabies may redeem such animal at any time prior to sale or destruction by having such animal vaccinated against rabies and by paying all animal shelter charges.
 - F. Sale or Destruction: At any time after the expiration of the period of time for redemption for impounded animal shall have expired, the Animal Shelter may, without further notice and without advertising in any manner, sell at private sale or public auction, for cash, any animal not redeemed or reclaimed. All animals impounded and not redeemed, reclaimed or sold after the period of time for redemption has expired, shall forthwith be destroyed by the Animal Shelter Personnel.
 - G. Refusal to Deliver Unvaccinated Animal: Any person, who shall refuse to deliver any unvaccinated animal to the Animal Control Officer, or any city policeman upon demand for impounding, shall be guilty of a misdemeanor.
 - H. Interference with Impounding Officers: Any person who shall interfere with or attempt to prevent the Animal Control Officer, any deputies, or any city policeman from catching or impounding any animal running at large, whether on public or private property, shall be guilty of a misdemeanor, and a fine of not less than \$75.00 or more than \$2,000.00 may be imposed.

SECTION VI – FEEDING OF FERAL/STRAY ANIMALS

It shall be unlawful for anyone to feed any free-roaming, stray, or feral animal unless it is in attempt to capture that animal to transport, vaccinate and or eradicate that animal for public health and safety reasons. Anyone caught violating this article shall first be advised by warning citation to immediately cease and desist the feeding activity. Failure to do so, and subsequent violations shall result in a citation being issued for each animal and for each day the violation continues. Furthermore, all animals that are being fed, will be considered owned by the violator and all state vaccination requirements, local registration ordinances shall apply, which would constitute additional violations for each and every animal involved.

The fine for first violation shall be \$200.00 total. The second violation shall be \$100.00 per animal involved in the incident and the surrender of the animals.

SECTION VII – SAVINGS CLAUSE

That if any section, part, or provision of this Ordinance is declared unconstitutional or invalid, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance, that all other parts of this Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION VIII – PENALTY

That any person who shall violate any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding \$2000.00.

SECTION IX – REPEALING CLAUSE

That all Ordinances and parts of Ordinances in conflict with the terms of this Ordinance are hereby repealed.

This Ordinance shall be effective from and after its passage and publication as provided by law, and IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED this the 13 day of October, 2020.

s/Brooks Valls
Mayor

ATTEST:

s/Christina Lockhart
City Secretary

**City Council Record Vote:
The members of the Governing Body voted on the adoption of Ordinance No. 10132020 – 13th of October, 2020:**

	AYE	NAY	NOT VOTING	ABSENT	SIGNATURE
Ronnie Funderburk, Mayor Pro Tem	<u> X </u>	_____	_____	_____	_____
Harley Lezaer, Councilmember	<u> X </u>	_____	_____	_____	_____
Cullen Freeman, Councilmember	<u> X </u>	_____	_____	_____	_____
Jimmy Pate, Councilmember	<u> X </u>	_____	_____	_____	_____
Kelli Eno, Councilmember	<u> X </u>	_____	_____	_____	_____