

**CITY OF KOSSE  
CITY COUNCIL MEETING  
TUESDAY OCTOBER 13, 2020- 7:00 P.M.**

Council Members Present:

Cullen Freeman      Ronnie Funderburk      Harley Leazer      Jimmy Pate      Kelli Eno

Council Members Absent:

None

Mayor Brooks Valls opened the meeting with the pledge of allegiance. Sue Mills led with a prayer. A quorum was present with all members present. Proper posting of the meeting was confirmed.

Consent Items: Minutes from the last meeting, accounts payable, and current general ledgers were reviewed. A motion by Harley Leazer was made to approve. Ronnie Funderburk seconded the motion. Motion carried.

Update on Shady Grove. The ad for sealed bids on the 16.22 acres of land will be in the Groesbeck Journal for the next two weeks.

Update on Yancy Street Project. Ronnie Pettigrew will be loading and hauling all the material that was donated by TXDOT to build up Yancey Street starting this week hopefully.

Discussion and take action on Awarding Construction Contract of the Kosse Water System Improvements- Pressure Reducing Valve. It was explained that this was part of the original project and was removed due to unsure if we had enough funds. There is funds available for this now. Currently we cannot maintain pressure or add any new customers outside city limits. Ronnie Funderburk made a motion to award the construction of the pressure reducing valve to Teal Services in the amount of \$75,920.00. Jimmy Pate seconded. Motion carried.

Discussion and take action on Shady Grove Survey Invoice. An invoice in the amount of \$4,560.63 that is due for the resurvey of the Shady Grove property. Harley Leazer made a motion to pay the invoice out of the General Fund. Kelli Eno seconded. Motion carried.

Discussion and take action on Executive Session: An Executive Session will be held pursuant to Section 551.072 of the Texas Government Code so that the City Council may deliberate about Real Property.

Start 7:10 p.m.

End 7:19 p.m.

Discussion and take action on Kosse EDC Request. Jimmy Pate made a motion to allow the EDC to negotiate and spend up to \$40,000 on land acquisition. Harley Leazer seconded. Motion carried. The EDC ladies thanked the Council.

Discussion and take action on Agreement of City of Kosse, Texas Animal Control and Robertson County Veterinary Services, PC. There have been so many complaints about stray animals and we have not had a place to take them. A error will was found on page 3 that will be changed by City Secretary. Kelli Eno made a motion to enter into an agreement with Robertson County Veterinary Services, PC. Harley Leazer seconded. Motion carried.

Discussion and take action on Amendment Ordinance 10132020 - Amendment to Ordinance NO 070703-Animal, Livestock and Fowl Control. Jimmy Pate made a motion to adopt Ordinance 10132020. Harley Leazer seconded. Motion carried. The ordinance reads as follows.

**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

Discussion and take action on Amendment Ordinance 10132020A- Amendment to Ordinance NO 11-11-2000 Abandoned Motor Vehicles. Jimmy Pate made a motion to adopt Ordinance NO 10132020A. Harley Leazer seconded. Motion carried. The ordinance reads as follows.

**ORDINANCE NO. 10132020A**

**AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 11-11-2000 ABANDONED MOTOR VEHICLES IN THE CITY OF KOSSE, TEXAS AND PROVIDING FOR PROCEDURES TO DISPOSE OF ABANDONED MOTOR VEHICLES AND JUNKED MOTOR VEHICLES, OF THE CITY OF KOSSE CODE OF ORDINANCES SO AS TO REDEFINE SECTION 3 AND REPEALING ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.**

WHEREAS, the City Council of the City of Kosse passed Ordinance No. 11-11-2000 regulating the Abandoned motor vehicles; and

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

WHEREAS, the Section 3 omits the word cover and if possible, and must be locked for safety; 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.

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

**SECTION 1. Definitions. As used in this ordinance:**

- (a) "Chief of Police" means the chief of police of the City of Kosse, Texas or any duly commissioned police officer of the City of Kosse, Texas.
- (b) "Abandoned Motor Vehicle" means
  - (1) a motor vehicle that is inoperable and over eight years old and is left unattended on public property for more than 48 hours; or
  - (2) a motor vehicle that has remained illegally on public property for a period of more than 48 hours; or
  - (3) a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or
  - (4) a motor vehicle left unattended on the right-of-way of any designated highway within this state in excess of 48 hours.
- (c) "Junked Motor Vehicle" means any motor vehicle as defined in Subchapter E, Section 683.071, Transportation Code, Texas Revised Civil Statutes, as amended, which:
  - (1) is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked, dismantled, partially dismantled, or discarded; or
  - (2) remains inoperable for a continuous period of more than 120 days.
- (d) "Motor Vehicle" means any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act, Article 6687-1, Texas Revised Civil Statutes.

**SECTION 2. Abandoned and junked motor vehicles declared a public nuisance.**

Abandoned and junked motor vehicles are detriments to the safety and welfare of the general public and tend to reduce the value of private property, to invite vandalism, to create fire hazards and to constitute an attractive nuisance creating a hazard to the health and safety of minors. They are detrimental to the economic welfare of the city and state by producing urban blight which is adverse to the maintenance and continuing development of the City of Kosse. Pursuant to the Texas Abandoned Motor Vehicles Act, such vehicles are declared to be a public nuisance and shall be subject to abatement as set out hereinafter.

**SECTION 3. Duty of property owners.**

The owner or occupant of any real property within the city of Kosse shall keep such property free of abandoned or junk vehicles and shall not permit or suffer their presence on such property. In the event such property owner has a vehicle/s, the following shall apply: The owner encloses inoperable vehicle/s and keep surroundings clean and neat as to not cause a nuisance. All such vehicle shall be kept out of the view of passersby.

**SECTION 4. Leaving of abandoned or junked vehicles on public property or public right-of-way prohibited.**

No person shall abandon a motor vehicle or leave a junked motor vehicle on public property or on a public right-of-way. No person who is the owner of a motor vehicle or a junked motor vehicle shall knowingly allow such vehicle to be abandoned or to remain on public property or on a public right-of-way.

**SECTION 5. Interference with Chief of Police.**

It shall be unlawful for any person to knowingly or intentionally interfere with or to attempt to interfere with the physical impounding of any abandoned or junked vehicle by the chief of police or his delegate pursuant to this ordinance.

**SECTION 6. Abatement notice to owner of nuisance located on occupied premises.**

Whenever any abandoned or junked vehicle is located on any occupied premises within the City of Kosse in violation of Section 3 of this ordinance, the chief of police shall notify the owner or occupant of the premises on which the abandoned or junked vehicle is located to abate or remove the nuisance.

**SECTION 7. Abatement notice to owner of nuisance on unoccupied premises.**

Whenever any abandoned or junked vehicle is located on any unoccupied private premises in the City of Kosse in violation of Section 3 of this ordinance, the chief of police shall notify the owner of the premises, as shown on the current tax rolls of the City of Kosse, to abate or remove the nuisance.

**SECTION 8. Abatement notice to owner of premises adjacent to nuisance located on public property or on public right-of-way.**

Whenever any abandoned or junked vehicle is located on public property or on public right-of-way in violation of Section 4 of this ordinance, the chief of police shall notify the owner of such vehicle to abate or remove the nuisance, if the chief of police cannot reasonably determine the identity or address of the owner of such vehicle, the chief of police shall notify the premises or the owner of the premises nearest such vehicle to abate or remove the nuisance.

**SECTION 9. Content of notice to abate or remove nuisance.**

The notices given the chief of police pursuant to Section 6 or 7 of this ordinance shall be in writing and contain the following:

- (a) a statement describing the nature of the public nuisance and that it must be removed or abated within ten days of the service of notice;
- (b) a statement that a request for hearing to determine whether or not the motor vehicle is an abandoned or junked motor vehicle as defined herein must be made to the City Secretary or Municipal Court Clerk in person or in writing within ten days and that there shall be no requirement of bono for such hearing;
- (c) a statement that in the event that no request for a hearing is received before the expiration of said ten-day period it shall be conclusively presumed that said vehicle is an abandoned or junked vehicle as defined under state law and city ordinance.

**SECTION 10. Service of notice to abate or remove nuisance.**

Said notice shall be served on the persons designated in Sections 6, 7, or 8 by either of the following:

- (a) by serving individual personally and obtaining individual's acknowledgement of receipt of notice in writing, such receipt to be filed with the police department; or
- (b) by sending such notice to the address of the premises or to the address shown on the city tax rolls for the person to be notified by certified mail, five day return receipt requested.

**SECTION 11. Authority of chief of police to take possession of vehicle.**

If the person so notified does not request a public hearing and either fails or refuses to abate or remove the nuisance within the ten day period after service of notice as provided herein, the chief of police or his delegate shall take possession of such abandoned or junked motor vehicle and remove it from the premises to a place designated by the chief of police.

**SECTION 12. Visible notice attached to vehicle.**

- (a) In addition to the notice required elsewhere in this ordinance, when a junked vehicle is located by the chief of police on either occupied or unoccupied private or public property or public right-of-way, a visible notice, brightly colored but of a different color than used for notices of abandonment, shall be securely affixed to such vehicle. Said notice shall contain the same information contained on other notices required by this ordinance, and shall in addition state the date on which it was attached to the vehicle.
- (b) Affixing the notice set out in this section shall not be a condition or requirement precedent to any proceeding or official action to abate such public nuisance and such proceeding or action shall not be rendered void or voidable nor in any way affected by failure to affix the visible notice prescribed herein.

- (c) In the event the visible notice sets out a ten day period different from that prescribed in any other notice served as provided for herein, the official action or proceedings to abate such nuisance shall not be commenced until after the expiration of both period of time.

**SECTION 13. Public hearing.**

- (a) The owner or occupant of any premises on which an abandoned or junked motor vehicle is located may within ten days after service of a notice to abate said nuisance, request of the clerk of the municipal court or the city secretary, either in person or in writing, and without the requirement of bond, that a date and a time be set when he may appear before the judge of the municipal court for a hearing to determine whether or not the motor vehicle is an abandoned or junked motor vehicle.
- (b) The judge of the municipal court shall hear any case brought before such court, as set out herein, and shall determine by a preponderance of the evidence whether or not the motor vehicle is an abandoned or junked motor vehicle and in violation of this article. Such hearing shall not be criminal in nature and shall be as summary as due process and orderly procedure allows. Rules of evidence as in civil suits shall be followed. Upon finding that such motor vehicle is in violation of this article, the judge shall order the abatement or removal of such nuisance within ten days, the same being a reasonable time. If the person requesting the hearing shall fail and refuse within such ten days, to abate or remove the nuisance, the judge of the municipal court shall issue an order directing the chief of police to take possession of the vehicle, and the chief of police or his delegate shall take possession of the vehicle and remove it from the premises to a place designated by the chief of police. Such order shall include a description of the vehicle, if available at the site.
- (c) Notice of any hearing set under this section shall be delivered to the chief of police.

**SECTION 14. Abatement under court order.**

If there is an abandoned or junked motor vehicle as herein defined, on premises that are occupied or unoccupied, and (1) neither the owner nor the occupant of the premises can be found and notified to remove same, or (2) the notice required by Section 10 is returned undelivered by the U. S. Post Office and ten days have elapsed after the return of such notice by the U. S. Post Office, and if the nuisance has not been abated, then upon a showing of such facts to the judge of the municipal court, the court may issue an order directing the chief of police or his delegate to take possession of such abandoned or junked vehicle and remove it from the premises to a place designated by the chief of police.

**SECTION 15. Notice to Texas Department of Public Safety.**

Notice shall be given to the Texas Department of Public Safety that an abandoned or junked motor vehicle has been impounded within five days after the removal of the vehicle as provided in this ordinance, identifying the vehicle or part thereof impounded.

**SECTION 16. Disposition of impounded vehicles.**

The chief of police or his delegate shall dispose of all impounded vehicles in such manner as the municipal judge may designate, consistent with state law, provided such vehicle shall not be reconstructed or made operable. Disposal may be by removal or sale, with or without competitive bidding, to a scrap yard or demolisher.

**SECTION 17. Penalty.**

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine of not more than Two Hundred Dollars (\$200.00). Each transaction in violation of any of the provisions herefor shall be deemed a separate offense.

**SECTION 18 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

