

## **ORDINANCE NO. 277**

### **ORDINANCE RELATING TO DOGS; PROVIDING FOR TICKETING AND FINES FOR DOGS RUNNING AT LARGE; PROHIBITING DOGS FROM COMMITTING NUISANCE OR DISTURBING THE PEACE; SETTING OUT REGULATIONS FOR DANGEROUS OR BITING DOGS; AND PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; REPEALING OF ORDINANCE 142, ORDINANCE 254, AND ANY OTHER ORDINANCE IN CONFLICT HEREWITH.**

#### **Section 1. PREAMBLE**

- a) The purpose of this ordinance is to:
  - 1) Provide a procedure to address dogs running at large within the City;
  - 2) Establish requirements regarding registration and ownership of dogs; and
  - 3) To provide a procedure for the general public to complain about and ultimately prosecute keepers of dogs which disturb the peace and quiet, destroy property or are otherwise a nuisance;
- b) The ordinance shall be enforced by the City of Goessel's Law Enforcement Officers. Police Officers shall have the authority and power to issue citations to any owner, keeper or harbinger of any dog within the City limits.
- c) This ordinance is intended to create municipal infractions for violation of provisions following. Each provision provides a specific penalty by fine and other lawful sanction as deemed appropriate by the Municipal Court. Nothing in these penalty sections should limit the Municipal Court from ordering appropriate legal costs such as court costs, restitution and fees. Further, nothing in this ordinance shall limit the Municipal Court from ordering that any dog found in violation of this ordinance should be placed in impoundment pending future order of the court.

#### **Section 2. DEFINITIONS**

- a) For the purposes of the succeeding sections, the following means shall apply:
  - 1) Owner-any person owning, keeping, supplying food, shelter, or otherwise indicating ownership of a dog.
  - 2) Dog-shall mean any dog over 6 months of age.
  - 3) General Public-all persons, adult or minor, not engaged in unlawful behavior.

#### **Section 3. REGISTRATION AND VACCINATION OF DOGS**

- a) Every owner of a dog within the limits of the City of Goessel, shall annually register the animal with the City Clerk. The dog shall be registered within 10 days of its presence in the city, or no later than August 1, for dogs previously registered. The City Clerk or their designee shall be furnished the name, description, and current address of the dog's location. The City Clerk or their designee shall receive from the owner, a certificate of immunization for rabies from a licensed veterinarian showing that immunization will be effective for the year in which the dog is licensed. The owner will provide an residential physical street address at which the dog stays, and a phone number at which they can be reached. No more than two dogs shall be permitted to be registered at any one physical address. Knowingly providing incorrect information as part of a dogs registration shall be punishable in the same fashion as a Class C Misdemeanor.

#### **Section 4. REGISTRATION FEES AND ISSUANCE OF TAGS**

- a) Upon receipt of required information and proof of vaccination the City Clerk or their designee shall receive from the registrant an annual fee for expenses and supervisory costs. There will be no proration of fees over the calendar year. Fees shall be established by resolution of the Council, they shall be currently set as follows:
- 1) Animal that is neutered or spayed - \$4.00.
  - 2) Animal that is not neutered - \$7.00.
  - 3) Animal that is not spayed - \$12.00.
  - 4) The penalty for a license purchased after August 1<sup>st</sup> shall be 50% of the registration fee.
- b) The City Clerk or their designee shall record the information received from the applicant including immunization, which shall be a matter of public record. Upon completion of registration, a metallic tag for each year, with an identification number, shall be given the registrant to be placed on the dog's collar.

**Section 5. OWNER SHALL REQUIRE DOG TO WEAR TAG**

- a) The owner shall place around the neck of the registered dog by a collar or halter, a metallic tag issued by the City Clerk or their designee and it shall be the responsibility of the owner to ensure that the tag be constantly worn by the dog. In the event such tag becomes lost, the owner shall be required to obtain a duplicate from the City Clerk or their designee upon payment of the sum of \$1.00

**Section 6. REGISTRATION REQUIREMENT OF DOGS IN CITY LIMITS**

- a) It shall be unlawful for an owner to fail to register a dog kept within the City limits of Goessel, Kansas in violation of Sections 3 through 5.

**Section 7. OWNER SHALL TAG DOG**

- a) It shall be unlawful for the owner to fail to attach and maintain city dog registration tags upon his/her dog.

**Section 8. UNLAWFUL FAIL TO VACCINATE DOG OR CAT**

- a) It shall be unlawful for any owner of any dog of the age of 6 months or older, or any cat of the age of 4 months or older to fail to vaccinate the animal for rabies by a licensed veterinarian and to keep the animal immunized.

**Section 9. DOGS RUNNING AT LARGE.**

- a) It shall be unlawful for the owner, keeper or harbinger of any dog to allow such dog to run at large within the City at any time.
- b) The owner or keeper of any dog cited for allowing a dog to run at large shall be guilty of a Class C violation, punishable by a fine as described below and/or imprisonment for a term of up to 30 days.

1<sup>st</sup> Offense: \$50

2<sup>nd</sup> Offense: \$100

3<sup>rd</sup> Offense: \$250

4<sup>th</sup> Offense: \$500

5<sup>th</sup> Offense: \$500 (Court may issue restrictions on future dog ownership).

If said dog destroys the property of another while running at large, the Municipal Judge may consider restitution as a dispositional option in addition to the above.

- c) The number of prior offenses as referenced above refers to the owner of the dog found running at large and not the dog. Offenses shall be tracked as of July 1, 2018 for purposes of determining prior offenses and shall not be considered if such prior offense was older than five (5) years on the date of the current violation was found to have occurred.
- d) The Judge of the Municipal Court may also, among other conditions or requirements, order the dog to be removed from the City limits or for the owner, keeper or harbinger to be prohibited from owning, keeping or harboring a dog within the City limits if the Judge determines the owner, keeper or harbinger is continuously, negligently or intentionally allowing his/her animal to run at large.

**Section 10. DOGS COMMITTING DISTURBANCE OR NUISANCE**

- a) It shall be unlawful for the owner or keeper of any dog to allow such dog to disturb the peace and quiet barking, howling or otherwise be a nuisance to others. Upon complaint by anyone so affected by dogs, the Police Officer shall attempt to notify the owner or keeper thereof, and if after such notice or attempted notice such dog or dogs continue to disturb the peace or otherwise be nuisance to other persons, then the owner or keeper shall be subject to a fine of not less than \$10.00 and not more than \$100.00, and other lawful sanction.

**Section 11. HANDLING OF DOGS BITING PERSONS**

- a) If any dog shall bite or tear the clothes of any person with its teeth, whether upon the premises of the owner or keeper or on any other premises, it shall be the right of the person so damaged, or any other person having information of same to make and file a complaint on oath with the Police Officer alleging briefly the facts concerning the attack and description of the dog and the name of the keeper thereof.
- b) It shall be unlawful for the keeper of any dog, or any person harboring any dog when notified that such dog has bitten any person or has so injured any persons to cause an abrasion of the skin, to sell or give away such dog for a period of thirty (30) days. It shall be the duty of such keeper upon receiving notice of the character aforesaid to immediately place such dog in a licensed veterinarian hospital at keeper's expense where such dog shall be confined for a period of not less than ten (10) days; and such keeper or person harboring such dog shall notify the City Clerk of the place of said dog and the date it was confined. Failure to follow this section is unlawful and keepers found in violation shall be subject to a fine of not less than \$50.00 nor more than \$200.00 and other lawful sanction

**Section 12. POTENTIALLY DANGEROUS DOGS; VICIOUS DOGS**

- a) "Potentially dangerous dog" means any of the following:
  - 1) Any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury: (1) when the person and the dog are off the property of the owner or keeper of the dog; or (2) when the defensive action is required to be taken by a lawful licensee on the property of the owner or keeper of the dog, including but not limited to utility meter readers, mail carriers, police or emergency personnel.
  - 2) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 12(c).

- 3) Any dog which, when unprovoked, has killed, seriously bitten, or otherwise caused injury by attacking a domestic animal off the property of the owner or keeper of the dog.
- b) "Vicious dog" means any of the following:
    - 1) Any dog which, when unprovoked, in an aggressive manner, inflicts serious injury on a human being or kills a domestic animal.
    - 2) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 12(a) or is maintained in violation of Section 13.
  - c) "Severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.
  - d) This section does not apply to animal control facilities, veterinarians or to dogs while utilized by any police department or any law enforcement officer in the performance of police work.
  - e) **JUDICIAL PROCESS:** If a Police Officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the officer shall petition the Municipal Court for a hearing for the purpose of determining whether or not the dog in question should be declared potentially dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis supporting the finding of probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The officer shall notify the owner or keeper of the dog that a hearing will be held by the Municipal Court, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. If, after hearing, a determination is made that the dog is potentially dangerous or vicious, the owner or keeper shall comply with Section 13 in accordance with a time schedule established in an order prepared by the Municipal Judge. This order may be appealed pursuant to Kansas law.
  - f) If upon investigation it is determined by the Police Officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the officer may seize and impound the dog pending the hearings to be held pursuant to this article. The owner or keeper of the dog shall be liable to the City for the costs and expenses of keeping the dog, if the dog is later adjudicated potentially dangerous or vicious.
  - g) No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.
  - h) No dog may be declared potentially dangerous or vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal, which at the time the injury or damage was sustained was at large or if the animal was the aggressor in causing the altercation.

**Section 13. DISPOSITION OF POTENTIALLY DANGEROUS OR VICIOUS DOGS**

- a) All potentially dangerous dogs shall be properly licensed and vaccinated. The City Clerk shall include the potentially dangerous designation in the registration records of the dog, either after the owner or keeper of the dog has agreed to the designation or the Municipal Judge has determined the designation applies to the dog.
- b) A potentially dangerous dog shall at all times be subject to the standards contained in Section 12.
- c) If there are no additional instances of the behavior described within a 36-month period from the date of designation as a potentially dangerous dog, the dog shall be removed from the list of potentially dangerous dogs. The dog may, but is not required to be, removed from the list of potentially dangerous dogs prior to the expiration of the 36-month period if the owner or keeper of the dog demonstrates to the Police department that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, have mitigated the risk to the public safety.
- d) A dog determined to be a vicious dog, may be destroyed by the Police Officer when it is found, after proceedings conducted under Section 12, that the release of the dog would create a significant threat to the public health, safety, and welfare.
- e) If it is determined that a dog found to be vicious shall not be destroyed, the Municipal Judge shall impose conditions upon the ownership of the dog that protect the public health, safety, and welfare.
- f) The owner of a dog determined to be a vicious dog may be prohibited by the City or County from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted under Section 12 that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

**Section 14. LIMIT ON NUMBER OF DOGS**

- a) There shall not be more than two dogs registered at any residential address within the City.


**Section 15. PUNISHMENT UPON CONVICTION**

- a) Violation of any of sections above not otherwise defined shall be treated as a Class C Misdemeanor as established by the Uniform Public Offense Code as adopted by the City of Goessel, Kansas and penalty assessed to the owner accordingly.

**Section 16. Goessel City Ordinance No's. 142 & 254 are hereby repealed and amended by this ordinance.**

This ordinance shall be effective from date of its passage and upon one publication in the official city newspaper.

PASS AND APPROVED by Goessel City Council this 8th day of June, 2018.

  
Signed: Dave Schrag, Mayor

  
Attested by: Jennifer Whitehead, City Clerk



## **ORDINANCE NO. 277**

### **SUMMARY**

On June 18, 2018, The City of Goessel, Kansas, adopted Ordinance No. 277, relating to dogs; providing ticketing and fines for dogs running at large; prohibiting dogs from committing nuisance or disturbing the peace; setting out regulations for dangerous or biting dogs; and providing penalties for violation of this ordinance. A complete copy of this ordinance is available at [www.goesselks.com](http://www.goesselks.com) or at city hall, 101 S. Cedar. This summary certified by Joshua Boehm, City Attorney.

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Joshua Boehm

1. Published in the Hillsboro Star-Journal, Hillsboro, KS, on \_\_\_\_\_, 2018)  
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