

2014
18

Never Published
Rescinded with 2015-07

RESOLUTION NO. 2014-18

A RESOLUTION PROHIBITING THE OWNERSHIP, POSSESSING, KEEPING OR HARBORING OF CERTAIN ANIMALS

NOW, on this 14th day of October, 2014, the Board of County Commissioners of Jackson County, Kansas, at a regularly called commission meeting has determined that it is advisable and necessary to enact a resolution dealing with the ownership, possession, keeping and harboring of certain animals within Jackson County, Kansas; and

WHEREAS, the Board of County Commissioners of Jackson County, Kansas is authorized to enact legislation designed to protect the health, safety and welfare of the citizens of Jackson County.

NOW, THEREFORE, the Board of County Commissioners of Jackson County, Kansas, meeting in regular session on this 14th day of October, 2014, and intending to exercise its powers of home rule legislation pursuant to K.S.A. 19-101a, does hereby resolve to enact the following:

SECTION 1.0 – DEFINITIONS. As used in this resolution:

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

Animal Control Officer means any person designated by the Sheriff of the County to perform and/or enforce provisions set forth in this Resolution.

Bite means that the skin has been penetrated by an animal's teeth. Teeth marks alone, without broken skin, do not constitute a bite.

Dangerous dog means any dog that demonstrates one or more of the following types of behaviors:

- (1) Any dog who is known to its owner, or reasonably should be known to its owner, to have a propensity, tendency, or disposition to attack without provocation, to cause bodily injury, or to otherwise endanger the safety of human beings or domestic animals.
- (2) Any dog which bites a domestic animal or livestock without provocation, if such bite occurs on property other than that of the dog's owner. For purposes of this definition, the term "provocation" does not include natural and typical dog behavior, including bites, by which dogs attempt to establish dominance between them, provided, however, any dog that kills another dog shall be deemed a dangerous dog.
- (3) Any dog which bites a person without provocation.
- (4) Any dog kept for the purpose of fighting or any dog trained for fighting.

(5) Notwithstanding this definition of dangerous dog, no dog may be determined a dangerous dog if:

- a. Any bite sustained by a person who, at the time such bite was sustained, was committing criminal trespass or any other crime at the premises of the owner, or was teasing, tormenting or abusing the dog.
- b. The dog was protecting it's property or defending a person or another animal within the immediate vicinity of the dog from an assault or battery; or
- c. The dog is used by a law enforcement agency in connection with the agency's official duties.

Dog means any domestic canine animal (*Canis familiaris*).

Livestock means cattle, calves, sheep, swine, horses, mules, goats, aquatic animals, domesticated deer, all creatures of the ratite family that are not indigenous to this state, including but not limited to ostriches, emus and rheas, and any other animal which can or may be used in and for the preparation of meat or meat products.

Own means a property interest in a dog, or in the exercise of possession, dominion or control over a dog, or the intent to exercise dominion or control over a dog with the present ability to do so.

Owner means a person who owns an animal.

Stray means any of the following:

- (1) A dog that is found running at large with no collar and the dog's owner has not claimed the animal after five days of impoundment, regardless of whether such owner has actual notice of such impoundment.
- (2) The owner has abandoned a dog as evidenced by lack of care, including the failure to provide food, water, or shelter for more than 12 hours.
- (3) The owner relinquishes ownership by expressing an intent to do so; or
- (4) The dog's general condition and health evidences a disregard for the dog's well-being.

SECTION 2.0 – ADMINISTRATION

- (a) Officers. The provisions of this Resolution shall be administered and enforced by the Sheriff of the County and his designees who shall be deemed Resolution enforcement officers for purposes of prosecuting a violation of this Resolution in County District Court. The Sheriff shall have authority to establish reasonable administrative regulations, policies, and procedures as needed to effectively carry out the spirit and intent of this Resolution and may delegate such authority to others as deemed prudent and expeditious.

- (b) Animal shelter, establishment. The Sheriff of the County shall provide for the reception and the humane care of the animals impounded under this Resolution and may contract with establishments for such reception and care.
- (c) Interference prohibited. No person shall knowingly interfere with any enforcement officer appointed under the provisions of this Resolution in the performance of his official duties as prescribed herein. It shall be unlawful for any person to refuse to identify himself by correct name and address when asked to do so by any enforcement officer when the officer has reason to believe that such person has violated this Resolution.
- (d) Refusal to deliver dog prohibited. No person shall refuse to deliver a dog to an enforcement officer when requested to do so under the impoundment provisions of this Resolution.

SECTION 3.0 – VIOLATIONS AND ENFORCEMENT.

Wherever in this Resolution any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of this Resolution shall be deemed to be a class C misdemeanor punishable upon conviction by a fine of not less than \$50.00 and not more than \$500.00 and imprisonment for up to 30 days in the county jail. Each day any violation of this Resolution continues shall constitute a separate offense.

SECTION 4.0 – DANGEROUS DOGS.

- (a) Ownership. It shall be unlawful for a person to own a dangerous dog, except in accordance with the following requirements.
 - (1) Dangerous dog confinement. All dangerous dogs shall be securely confined within a building or in a securely enclosed kennel or pen.
 - (2) Standards for kennels or pens of dangerous dogs. A kennel or pen used for confining a dangerous dog must have secure sides of sufficient height and sides to prevent escape. Such kennel or pen must have a secure bottom or floor attached to the sides of the kennel. The kennel or pen must be secured when the dangerous dog is within the kennel or pen. Any such kennel or pen must comply with all applicable zoning and building regulations.
 - (3) Confinement indoors. No dangerous dog may be kept on a porch, patio or in any part of a house or other structure that would allow the dangerous dog to exit such house or other structure on its own volition. In addition, no dangerous dog may be kept in a house or other structure when screen doors or screen windows are the only obstacle preventing the dog from exiting the house or other structure.
 - (4) Control of dangerous dogs. No person shall permit a dangerous dog to go outside it's kennel or building unless:

- a. The dangerous dog is secured on a leash no longer than four feet in length.
- b. A person has physical control of the leash and animal to prevent attack; and
- c. The dangerous dog shall not be leashed to inanimate objects such as trees, posts, or buildings, or left unattended.

(5) Dangerous dog signage. Every owner of a dangerous dog shall display in a prominent place at the place where the dangerous dog is kept a sign easily readable by the public in letters at least four inches high using the words: "Beware of Dog". Such a sign, if posted on the kennel or pen of the dangerous dog not less than four feet or more than six feet high, as measured from the floor of the kennel or pen, shall be deemed in compliance with this Resolution's signage requirement.

(6) Destruction of dangerous dogs. After a hearing, a dangerous dog may be ordered humanely destroyed by order of the County District Court upon a finding that:

- a. The owner of such dangerous dog has previously been twice convicted of failing to adequately confine or control such animal.
- b. The dangerous dog presents an imminent threat to the public health and safety; or
- c. The dangerous dog has caused great bodily harm to, or killed, a human being. An order of destruction provided for in this Resolution may be sought and obtained in either County District Court as provided in Section 6.0 of this Resolution or requested as relief or restitution as apart of any criminal proceeding.

(b) Permitting or directing animals to bite. It shall be unlawful for any person to permit or direct an animal to bite or attack another person, a domesticated animal or livestock. This subsection shall not apply to the use of dogs by law enforcement agencies or to lawful defense of a person, dwelling, or property.

SECTION 5.0 – NUISANCE DOGS.

(a) Any dog which engages in any of the following types of behavior is deemed a nuisance:

- (1) While running at large and without provocation, exhibits aggression or combativeness toward a person whether or not the person is actually attacked, bitten, or otherwise physically injured by the dog;
- (2) Molests, chases, or interferes with a person in the public right-of-way;
- (3) Damages public or private property other than that of it's owner; or
- (4) Harasses any person or livestock without provocation.

- (b) It shall be a violation of this Resolution to own a nuisance dog. Any person who is twice convicted for the actions of the owner's dog in any 12-month period shall thereafter keep the nuisance dog confined on the owner's property or on a leash when in public.

SECTION 6.0 – PROCEDURES FOR DOGS IMPOUNDED UNDER K.S.A. 21-4316.

K.S.A. 21-4316 et seq. authorizes the Board of County Commissioners to establish procedures to allow for the adoption or euthanizing of certain dogs involved in dogfighting. The following procedures shall apply to the care and disposition of any dog impounded under the provisions of K.S.A. 21-4316 relating to unlawful dogfighting activities:

- (1) When a dog is impounded by any law enforcement agency and placed with an animal shelter, humane society, veterinarian, or any other person or entity, the dog's owner shall be responsible for paying the costs of boarding the dog during the pendency of the underlying criminal proceedings and until the dog is released to the owner.
- (2) Any animal shelter, humane society, veterinarian or other person boarding a dog impounded under the provisions of K.S.A. 21-4316 may petition the District Court of the County for an order allowing for the adoption or euthanizing the dog if the dog's owner fails to post a renewable cash or performance bond with the County Clerk sufficient to provide for the cost of care and treatment of the dog for not less than 30 days, or fails to keep such bond in force during the dog's impoundment.
- (3) For purposes of establishing the amount of cash or performance bond required under this Section, the Board of County Commissioners determines that a reasonable daily charge for ordinary care and treatment for each dog shall not exceed \$25.00 per day, but such daily charge maybe increased by the County on or after each anniversary date of the adoption of this Resolution by up to \$1.00 per day without further action of the Board of County Commissioners. Extraordinary costs for treatment and care maybe submitted to the County for review and consideration and shall be approved if found reasonable and necessary for the care and treatment of any impounded dog.
- (4) If a dog's owner shall fail to post and keep in effect the cash or performance bond required by this Section within seven days after impoundment of the dog, the animal shelter, humane society, veterinarian or other person boarding the dog may file a Petition in the County District Court seeking to place the dog for adoption or to euthanize the dog at any time after 20 days from the date the dog was first impounded.
- (5) Notwithstanding anything to the contrary in this Resolution, if a dog's owner disclaims in writing the owner's interest in a dog impounded under K.S.A. 21-4316 et seq., the dog may be placed for adoption or euthanized by the animal shelter, humane society, veterinarian or other person boarding the dog without further notice of hearing. From and after the date of the execution of such disclaimer, the owner shall be released from any future costs imposed for the care and treatment of such dog during

impoundment but shall remain liable nonetheless for costs incurred prior to the execution of such disclaimer.

SECTION 7.0 – ANIMAL IMPOUNDMENT.

- (a) Impoundment, General. Any dangerous dog, stray, or nuisance dog found to be in violation of this Resolution may be seized, impounded, and placed in an animal shelter, or other location approved by the Sheriff of the County.
- (b) Impoundment costs. All costs associated with impounding and boarding an animal pursuant to this section shall be the obligation of the owner of such dog. If the owner fails to pay such costs immediately upon demand, the County shall be entitled to seek reimbursement of any costs incurred by the County either in an independent civil proceeding or as restitution as a part of any applicable criminal Court proceeding. No owner shall be relieved of liability for payment of an impoundment or boarding charges incurred because an animal is euthanized or delivered to a humane society or rescue group as provided herein.
- (c) Euthanization or other disposition. If an impounded dog's owner is not known or not located, or if an impounded dog is not claimed by an owner within five days after the dog is impounded, the dog may be humanely destroyed or released to a humane society, rescue group, veterinarian or other person, except that no impounded dangerous dog shall be released but rather such dangerous dog shall be humanely destroyed. However, an owner of an impounded dangerous dog may request a hearing in the County District Court on any scheduled euthanization by requesting a hearing, in writing, within the five day impoundment period and, until such hearing is held and a final Court decision is reached, the dangerous dog shall be kept in impoundment, at the owner's expense, which expense shall be paid in advance on a monthly basis.
- (d) Rabies cases. No dog quarantined for observation of suspected rabies shall be euthanized until authorization to do so is obtained by the County's director of health and environment. The provisions of this Resolution shall not reduce or otherwise limit any requirement for quarantining animals for observation following a suspected or actual exposure to rabies. Nothing in this Resolution shall prohibit or delay the humane destruction of an animal suspected of being infected with rabies if such destruction is done in compliance with applicable County regulations and state law.
- (e) Removal of dogs from animal control officer or shelter prohibited. No person shall remove a dog from the custody of an animal control officer, animal shelter, or other location at which a dog is located, whether by force, deceit or otherwise, when such dog has been impounded by an animal control officer, whether under the provisions of this Resolution or any other applicable regulation, unless the release of the dog has been authorized by an animal control officer or the director of public health.

SECTION 8.0 – EFFECTIVE DATE.

This resolution shall take effect and be in force within the unincorporated area of Jackson County, Kansas from and after its publication once in the official County newspaper.

**Board of County Commissioners,
Jackson County, Kansas**



Attest:

Kathy Mick

Kathy Mick, Jackson County Clerk

William Elmer, Chairman

Ed Kathrens

Ed Kathrens, Member

Janet Zwonitzer

Janet Zwonitzer, Member

RESOLUTION NO. 2015-07

A RESOLUTION REPEALING AND RESCINDING RESOLUTION NO. 2014-18 PROHIBITING THE OWNERSHIP, POSSESSING, KEEPING OR HARBORING OF CERTAIN ANIMALS.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY, KANSAS on this *2nd* day of *March*, 2015, that the Board of County Commissioners, after reviewing Resolution No. 2014-18 hereby finds that said resolution is no longer prudent.

BE IT FURTHER RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JACKSON COUNTY, KANSAS on this *2nd* day of *March*, 2015, that the Board of County Commissioners, after reviewing Resolution No. 2014-18 hereby finds that said Resolution is no longer prudent and said Resolution No. 2014-18 is hereby rescinded and repealed on this date.

WHEREAS, this Resolution is approved and adopted by the Board of County Commissioners of Jackson County, Kansas on the date and year first above written.

Dated this *2nd* day of *March*, 2015.



Attest:

Kathy Mick

Kathy Mick, Jackson County Clerk

**Board of County Commissioners,
Jackson County, Kansas**

Janet Zwonitzer

Janet Zwonitzer, Chairperson

William Elmer

William Elmer, Member

Robin Ladner

Robin Ladner, Member

