

ORDINANCE NUMBER 561

AN ORDINANCE PERMITTING THE KEEPING OF DOMESTICATED DUCKS WITHIN THE CORPORATE LIMITS OF THE CITY OF WESTMORELAND, AND REPEALING THOSE PARTS OF ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTMORELAND, KANSAS.

SECTION 1. Except where prohibited by subdivision covenants, conditions and restrictions, it shall be lawful to keep, permit or allow domesticated ducks within the corporate limits of the City of Westmoreland under the following terms and conditions:

a) No ducks or ducklings shall be permitted upon properties other than single family detached residential lots or tracts, and a total of not more than four (4) ducks or ducklings, shall be allowed for each single family dwelling.

b) There shall be no outdoor slaughter of ducks or ducklings.

c) All ducks or ducklings must be kept at all times in a secure pen. Pens shall be designed and constructed so as to provide safe and healthy living conditions for the ducks or ducklings while minimizing adverse impacts to city residents. All pens shall be enclosed on all sides and have a roof and doors. All pen access doors must be able to be shut and locked. Windows and vents must be covered with predator-proof and bird-proof wire containing less than one inch openings. Enclosures shall be constructed in accordance with City policies maintained by the zoning enforcement officer.

d) Enclosures shall not be located in front or side yard areas as defined by the zoning ordinance(s) of the City of Westmoreland. All pens shall be located in the backyard of the residence. "Backyard" for purposes of this ordinance shall mean that area of a lot that is located between the back of a house and the rear property line. All pens shall be located at least twenty-five feet (25') from any neighbor's home, and at least ten feet (10') from any property line. Ducks or ducklings shall be kept in the pens at all times, except when being removed for slaughter, or for cleaning of the pen, and shall not be permitted to be at large on any lot. A fenced lot or a fenced portion of a lot shall not be deemed a proper or authorized pen.

e) All pens shall be kept clean, dry, odor-free and in a sanitary condition at all times. All pens shall be constructed and repaired to prevent rats, mice or other rodents from being underneath or within such structures.

f) Provision must be made for the storage and removal of manure. All stored manure shall be covered by a fully enclosed structure or container with a roof or lid over the entire structure or container. All manure not properly stored and not used for composting or fertilizing on the premises shall be removed.

- g) All production from ducks raised must be consumed on the premises.
- h) A permit for the keeping of ducks or ducklings must be obtained from the City's zoning administrator. The keeping of ducks or ducklings after a permit has been revoked shall be a violation of this Ordinance.

SECTION 2. Any person wishing to keep ducks or ducklings within the City of Westmoreland, Kansas, shall file an application to do so with the City Clerk. Such application will then be reviewed by the Zoning Administrator, who will either grant or deny the permit. If a permit is granted, the cost of such permit shall be thirty dollars (\$30.00). In cases where the keeper of the ducks or ducklings is not the property owner, the written consent of the property owner is required before a permit can be issued. Plans for the pen shall be filed with the permit application, together with the proposed location for the same on the property. The proposed location of the pen shall be inspected by the Zoning Administrator prior to the issuance of a permit. A permit holder shall comply at all times with the provisions of this Ordinance. Any denial or revocation of a permit shall be in writing and shall include notification of the right to appeal such denial or revocation. Any appeal of a denial or revocation shall be in writing and shall be filed with the City Clerk. Any such appeal shall be heard and determined by the governing body within forty-five days from and after the filing of such appeal.

SECTION 3. Any person, corporation, partnership or association keeping ducks or ducklings in the City of Westmoreland shall permit the Zoning Administrator to inspect the facilities for the keeping of such ducks or ducklings at any time, with or without notice, and denial of access by the zoning administrator shall be grounds for the revocation of a permit issued under the provisions of this Ordinance.

SECTION 4. If the zoning administrator determines that a permit holder has violated or is violating any of the provisions of this Ordinance, the zoning administrator may revoke the permit for the keeping of ducks or ducklings.

SECTION 5. Any person, corporation, partnership or association who has been denied a permit or had a permit revoked, shall be served a notice of such denial or revocation. The notice shall be served on the owner or agent of the owner of the property at issue by personal service or by restricted mail. The notice shall state the conditions which is/are in violation of

the provisions of this Ordinance, and shall inform the person, corporation, partnership or association that:

- a) He, she, or they have ten days from the date of the serving of the Notice to appeal the denial of a permit or the revocation of a permit, and request a hearing before the Governing Body.

b) Failure to remove the ducks or ducklings from the property or to appeal and request a hearing before the Governing Body within the time set out above may result in prosecution as provided by this Ordinance.

SECTION 6. Should the person, corporation, partnership or association fail to comply with the notice set out in Section 5 above or request a hearing, or if any person shall violate the provisions of this Ordinance, the Zoning Administrator or the City Attorney may file a complaint in the Municipal Court of the City against such person, corporation, partnership or association and upon conviction of any violation of the provisions of this Ordinance, such person, corporation, partnership or association may be fined in an amount not to exceed five hundred dollars (\$500.00) or be imprisoned for not more than 30 days, or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

SECTION 7. All parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 8. This Ordinance shall take effect and be in force from and after its passage and publication in the Official City Newspaper.

Passed and adopted by the City Council of Westmoreland, Kansas, this 14th day of June, 2018.

ss:// Mark A. Goodenow
Mayor

Attest: (SEAL)

Vicki B. Zentner
City Clerk

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