

ORDINANCE NUMBER 583

AN ORDINANCE PROHIBITING THE KEEPING, OWING, OR HARBORING OF DANGEROUS DOGS; LIMITING THE NUMBER OF DOGS THAT MAY BE OWNED, KEPT OR HARBORED; REQUIRING LICENSING AND REGISTRATION OF DOGS; PROVIDING FOR FEES TO BE CHARGED FOR THE LICENSING AND REGISTRATION OF DOGS; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH SUCH REQUIREMENTS; PROVIDING FOR THE CAPTURE AND IMPOUNDMENT OF CERTAIN ANIMALS; PROVIDING FOR THE DISPOSITION OF DOGS OR CATS BY ADOPTION OR EUTHANASIA; REPEALING ORDINANCE NUMBERS 433, 497, 498, 506, 544, 568 and 548; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

Be it ordained by the Governing Body of the City of Westmoreland, Kansas.

SECTION 1: Definition of "Harborer". Any person who shall allow any dog to habitually remain or to lodge or be fed within his or her home, store, yard or enclosure or place of business or any other premises in which he or she resides, or controls, shall be considered as harboring such dog within the meaning of this Ordinance.

SECTION 2: Definition of "Person". Person shall mean any natural person or legal entity, domestic or foreign. A legal entity shall include by way of example but not by way of limitation, a corporation, limited liability company, partnership, or joint venture, limited liability partnership, and/or association of any kind and by whatever name.

SECTION 3: Definition of "Own" or "Owning". Own or owning shall mean to keep, maintain, possess, control, sell, trade, buy or harbor.

SECTION 4: Definition of "Aggressive Dog". The term "aggressive dog" shall mean and shall include any of the following:

- (a) Any dog which, while at large, exhibits aggression or combativeness toward a person or another domestic animal, whether or not said person or animal is actually attacked, bitten, or otherwise physically injured.
- (b) Any dog which has been known to bite at, chase, or run after any person or domestic animal within the city.
- (c) Any dog used primarily to guard public or private property.

SECTION 5: Definition of "dog at large". The term "dog at large" shall mean and include any dog which is in the habit of barking or howling by day or night, disturbing the peace and quiet of any person, family, or neighborhood within the city. Further, any other dog whether tagged or not tagged that is not securely confined on the premises of such owner, keeper, or harborer. Any dog securely restrained within a vehicle or by a leash or chain held or controlled by some person when off the premises of the owner, keeper, or harborer shall not be deemed to be a "dog at large".

SECTION 6: It shall be unlawful for any person to own, keep, or harbor within the city of Westmoreland, Kansas, any aggressive dog, as defined above, except as set out below. After January 1, 2016, except as set out below, all persons, firms, corporations, or other entities owning, possessing, keeping, harboring or maintaining any dog of the breed or breeds described in this Ordinance shall remove such dog or dogs from the City of Westmoreland forthwith, but not later than five (5) days of the mailing of a notice by regular mail to such owner, keeper, or harbor, to remove such dog or dogs from the city of Westmoreland. Failure to comply with the provisions of this Ordinance or failure to comply with any notice issued under this Ordinance may result in the complaint being filed pursuant to this Ordinance and prosecution of the same in the Municipal Court of the City of Westmoreland.

SECTION 7: It shall be unlawful for any person to own, keep, or harbor within the City of Westmoreland, Kansas, any Aggressive Dog, as defined above, unless such person shall keep the dog muzzled with a good or significant muzzle, or securely fastened in tide so that it cannot reach any person or animal to do him, her, or it damage or harm, or shall keep the dog in an enclosure securely fenced, with a fence at least six feet in height, so that the dog cannot escape therefrom in posting a sign warning the public of the aggressive dog. It shall further be unlawful for the owner, keeper, or harbor of such aggressive dog to permit such dog to run at large within the city. Any Aggressive Dog as defined above, shall be forthwith removed from the City of Westmoreland.

SECTION 8: Limit of Dogs. It shall be unlawful for any person to own, keep, or harbor at or within any home, apartment, yard, store, or business more than three (3) dogs older than six (6) months of age. It shall further be unlawful to keep, harbor, or maintain at or within any home, apartment, yard, store, or business more than three (3) dogs older than six (6) months of age, whether such dogs are owned, kept, or harbored by one person or more than one person.

SECTION 9: License Required. It shall be unlawful for any person to own, keep, or harbor any dog over six (6) months of age within the corporate city limits of the City of Westmoreland Kansas, without first having paid a yearly license fee or tax thereon.

SECTION 10: Registration. It shall be the duty of the owner, keeper, or harbinger of any dog over six (6) months of age to register the same with the City Clerk. The owner, keeper, or harbinger of any such dog shall at the time of registration make application on a form provided by the City, stating his or her name and address, and the name, breed, color, and sex of each such dog along with a proof of current rabies vaccination; Provided however, that the provisions of this section shall not apply to non-residents temporarily in the city for a period of less than two weeks, nor two dogs brought into the city for the specific purpose of participating in a dog show, nor to "service dogs" as defined by the Americans with Disabilities Act, providing such service dogs are properly trained to assist persons with disabilities and further providing that such dogs are being actively used in aiding persons with disabilities.

SECTION 11: License Fee. Any person who shall own, keep, or harbor any dog or dogs over six (6) months of age within the corporate city limits of the City of Westmoreland, Kansas, shall pay to the City Clerk an annual fee or tax on each such dog in the amount of \$10.00. Such license fee tax shall be due and payable on or before April 1st of each year, or upon on the date of

acquisition of any such dog or dogs, or within 30 days after such dog reaches the age of six months. Except as provided herein, if that license fee or tax is not paid on or before April 1st of each year, or reaches the age of six months, a penalty of \$15 shall be added. The full amount of the annual license fee or tax shall be required regardless of the time of the year such license fees paid.

SECTION 12: Tag and Collar. Upon registration and payment of the license fee or tax imposed by Section 11 above, the City Clerk shall issue to the owner a license certificate and metallic tag of a different color from the prior year. for each dog so licensed, except that no new tag need be issued by the Clerk where a tag for such dog has been previously issued by the Clerk and is being worn by such dog. Each owner shall be required to provide each dog with a collar to the license tag must be affixed and shall be responsible that the collar and tag are worn by such dog. Should a dog tag be lost or destroyed, the owner shall forthwith apply to the City Clerk for a duplicate license tag and shall pay the sum of fifty cents (\$0.50) for such duplicate tag. Dog licenses and tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of the death of the dog or the removal of the dog from the City before the expiration of the license.

SECTION 13: Animal Control Officer. There is hereby created the position of animal control officer for the City of Westmoreland. Such officer shall be charged with the enforcement of the provisions of this Ordinance. Such officer shall be appointed by the Mayor, with the advice and consent of the City Council. Such person may be an employee of the city of Westmoreland, or may be a member of the City Council for the city of Westmoreland, or such person may be an independent contractor contracting with the city of Westmoreland for such services. The Mayor may appoint more than one person to serve as animal control officer, and nothing herein shall prohibit employees of the City of Westmoreland from impounding any dog or other animal whose presence or actions constitute a nuisance, or from impounding any dog running at large within the City of Westmoreland. If any employee of the City of Westmoreland shall impound any dog or other animal, such employee shall comply with the provisions of this ordinance as to information to be recorded regarding such dog or other animal, and the giving of notice.

SECTION 14: Facility for Holding of Dogs or Cats. The City may contract or may have formal or informal arrangements with a pound or animal shelter of another city or municipality, or with a licensed veterinarian, for the holding or keeping of dogs or cats brought to such pound, shelter, or veterinarian by the animal control officer. Such pound or shelter or veterinarian may have any of the following services and facilities: (a) adequate pickup and impounding facilities for stray or ownerless dogs or cats or dogs or cats found to running at large within the City of Westmoreland, Kansas; (b) individual isolation facilities for sick, biting, rabid and suspected rabid animals; (c) facilities and procedures for the adoption or humane destruction of animals.

SECTION 15: Impounding of Dogs or Other Animals.

(a) Any dog or cat found to be running at large within the City of Westmoreland, that is caught and impounded pursuant to the provisions of this Ordinance, shall be held at the pound, animal shelter or other facility at which it has been deposited for a period of five (5) calendar days following its capture and deposit at such facility. The owner, keeper or harbinger of such dog or cat may inquire of the Westmoreland City Clerk at which facility such dog or cat is being held, and within the five (5) day period following the capture and deposit of such dog or cat may, upon

establishing his or own ownership of and/or legal right to keep or possess such dog or cat, and payment of all charges, costs, fees, and expenses imposed by this Ordinance and the rules and regulations of the facility, recover, receive, claim and take possession of such dog or cat directly from the facility at which such dog or cats is being held. All dogs or cats which are not claimed and taken possession of by the owners, keepers or harbors within the five (5) calendar day period following their capture and deposit at such facility pursuant to this Ordinance shall immediately become the property of the City of Westmoreland and may subsequently be disposed of by the City of Westmoreland or its designee or contractor either by adoption or euthanasia. In the event a former owner, keeper, or harbinger of a dog or cat which has become the property of the City of Westmoreland wishes to recover, receive, claim and take possession of such dog or cat by adopting said dog or cat, no such reclamation by adoption may occur until all charges, costs, fees and expenses prescribed by this Ordinance and the rules and regulations of the facility have been paid and a receipt evidencing such payment has been presented to the facility at which such dog or cat is being held.

(b) If the dog or other animal impounded has a current registration tag attached to its collar, or if the animal control officer knows or believes he/she knows the owner of such dog or animal, the animal control officer shall cause notice of such impoundment to be mailed to the owner of the dog or other animal. If the dog or other animal is not registered or licensed, or if the animal control officer does not know or believe he/she knows the owner of such dog or other animal, then notice shall be posted in the City Hall of the fact of such impoundment. Such notice shall contain a description of the dog or other animal, the license or registration number (if the same is affixed to the collar), and the place and date of the taking of the dog or other animal. Failure of the animal control officer to comply with the provisions of this subsection shall not be the basis of any action against the City resulting from the disposal by adoption or euthanizing of any such animal, nor shall any such failure extend the time for the recovery by the owner of a dog or cat which has been delivered to a facility under the provisions of this Ordinance.

(c) If the owner of any dog or cat impounded or delivered to a pound, animal shelter or other facility under the provisions of this Ordinance shall appear at City Hall during regular business hours within five (5) days after the dog or cat is impounded or delivered to the animal shelter or other facility under the provisions of this Ordinance, and pay all pick-up charges or fees, all travel or transportation charges or fees, all boarding charges and fees, and any other direct costs, charges and expenses associated with the enforcement of this Ordinance, or imposed by the animal shelter or the other facility, then in that event such dog or other animal may be redeemed and returned to the owner. Before the owner shall be entitled to recover the dog or cat within the five (5) day period, he or she must show a copy of a receipt to the appropriate animal shelter or facility, establishing that all charges, costs, fees, and expenses have been paid directly to the City of Westmoreland, and such receipt must have been signed by the City Clerk or the Clerk's representative.

(d) Any dog or cat found in violation of the provisions of this Ordinance or any other Ordinance of the City of Westmoreland, or any dog or cat whose presence or actions constitute a nuisance, or any dog or cat running at large within the City of Westmoreland, or any dog upon which the license fee or tax provided for in this Ordinance has not been paid, shall be subject to impoundment by the City, except that only dogs or cats found to be running at large may be

delivered to the City's contracted animal shelter. A record of all dogs or other animals impounded shall be kept by the Animal Control Officer, such record to contain the following information: the color, sex, approximate height, approximate weight, identifying marks, registration number (if any), and the date of impoundment.

(e) After the expiration of the five (5) day period set out above, the City is authorized to dispose of any unclaimed dog or cat or other animal, by adoption or by euthanasia, or by delivering such dog or cat or other animal to a facility for the euthanizing of such dog or other animal.

(f) Any costs incurred by the City of impounding, keeping or disposing of any dog or other animal shall be assessed against the owner, keeper, or harbinger of such dog or other animal, and such owner, keeper or harbinger shall pay or reimburse the City for any such costs, irrespective of whether the owner, keeper or harbinger redeems such dog or other animal.

SECTION 16: Methods for Capturing Dog or Other Animal.

(a) When deemed necessary by the animal control officer for the health, safety and welfare of the residents of the City of Westmoreland, Kansas, such officer and his/her agent(s) may place a humane trap on public property, or on property of a resident in the City if the resident requests such a trap, for the purpose of capturing any animal defined by the Ordinances of the City of Westmoreland as creating a nuisance, or for the purpose of capturing any dog running at large within the City. For purposes of this Ordinance, a humane live animal trap shall mean any cage trap that, upon activation, encloses an animal without placing any physical restraint upon any part of the body of such animal.

(b) The animal control officer is authorized to use a tranquilizer gun, firearm, humane trap, or other suitable device(s) to subdue, capture, or destroy any dog or other animal that is deemed by the animal control officer, in his or her discretion, to be a danger to itself or to the public health and safety.

(c) The animal control officer shall be authorized to use a tranquilizer gun in the enforcement of this Ordinance. Such officer shall be further authorized to kill any dog or other animal which it is impractical or impossible to catch, capture, or tranquilize.

(d) The animal control officer shall have right of entry upon any private unenclosed lots or lands for the purpose of collecting any dog or other animal whose presence thereupon is a violation of this Ordinance or any other Ordinance of the City of Westmoreland, or any dog or animal whose presence or actions constitute a nuisance, or any dog that is running at large. No person shall interfere with the animal control officer in the exercise of this right.

SECTION 17: Ordinance Number(s) **433, 497, 498, 506, 544, 568 and 548** are hereby repealed as of the effective date of this Ordinance.

SECTION 18: Penalties. Any person violating the provisions of Sections 6, 7 or 8 of this Ordinance shall be deemed guilty of a Class B misdemeanor, and maybe sentence to pay a fine of not more than one thousand dollars (\$1,000.00), or sentence to a jail term of not more than six

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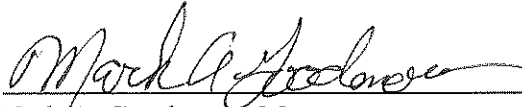
SECTION 19: Penalties. Any person violating the provision of Sections 9, 10 or 11 of this Ordinance shall, upon conviction hereof, be fined not more than \$500.00 on a first conviction and fined not more than \$1,000.00 upon a second of subsequent conviction.

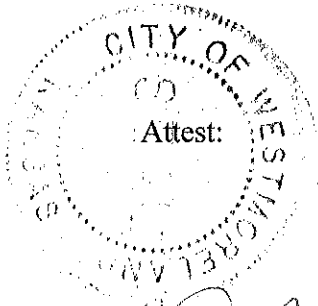
SECTION 20: Monies. All funds obtained by the City of Westmoreland under the provisions of this Ordinance for the licensing and care of dogs, shall be credited to the general operation fund of the City.

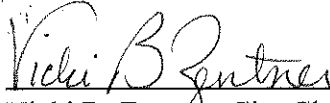
SECTION 21: Validity. Should any section or portion of this Ordinance be deemed invalid or unconstitutional, then and in that event, all other sections or portions of this ordinance shall remain in full force and effect notwithstanding such invalidity.

SECTION 22: Effect. This Ordinance shall take effect and be in full force from the and after January 1, 2022.

Passed and adopted by the City Council of the City of Westmoreland, Kansas, this 9th day of December, 2021.


Mark A. Goodenow, Mayor




Vicki B. Zentner, City Clerk

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