

## **ORDINANCE NUMBER 548**

### **AN ORDINANCE PROHIBITING THE KEEPING, OWNING, OR HARBORING OF DANGEROUS DOGS; LIMITING THE NUMBER OF DOGS THAT MAY BE OWNED, KEPT OR HARBORED; REPEALING ORDINANCE NUMBER 506; 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, 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 “dangerous dog”. The term “dangerous dog” shall mean and shall include any of the following:

- (a) Any dog, whether pure breed or mix, which has the appearance and characteristics of any one or more of the following breeds: American Pit Bull Terrier, American Staffordshire Terrier, Bull Terrier, American Bully, Staffordshire Bull Terrier, Rottweiler, Doberman Pinscher, Chow, Argentine Dogo, Cane Corso, Dogue de Bordeaux, Dogo Cubano, Dogo Sardesco, Fila Brasileiro, Perro de Presa Canario, or Wolf hybrids. A dog of any of these breeds, including crosses or hybrids of any of these breeds, shall be considered a dangerous dog per se.
- (b) Any dog which has attacked a human being or domesticated animal.

**SECTION 5:** 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.
- (d) The term “aggressive dog” shall not include any dog defined as a dangerous dog

in Section 4 above.

**SECTION 6:** It shall be unlawful for any person to own, keep, or harbor within the City of Westmoreland, Kansas, any dangerous dog, as defined in Section 4 above, except as set out in Section 7 below. After January 1, 2016, except as set out in Section 7 below, all persons, firms, corporations, or other entities owning, possessing, keeping, harboring or maintaining any dog of the breed or breeds described in Section 4(a) of this Ordinance shall remove such dog or dogs from the City of Westmoreland forthwith, but not later than five days of the mailing of a notice by regular mail to such owner, keeper or harborer, to remove such dog or dogs from the City of Westmoreland. Failure to comply with the provisions of this Section 6 or failure to comply with any notice issued under this Section 6 may result in a complaint being filed pursuant to this Ordinance and prosecution of the same in the Municipal Court of the City of Westmoreland.

**SECTION 7:** Any dog of a breed described in Section 4(a) of this Ordinance which is legally registered in the City of Westmoreland prior to January 1, 2016, and which dog continues to be legally registered in the City of Westmoreland thereafter, shall be permitted to remain in the City of Westmoreland after January 1, 2016, provided that such dog shall continue to be properly registered in the City of Westmoreland after January 1, 2016, and further provided that such dog does not attack a human being or domesticated animal under Section 4(b), or provided that such dog is not an Aggressive Dog as defined by Section 5(a), 5(b), or 5(c) above. Any such dog that bites a human being or domesticated animal or any such dog that is an Aggressive Dog as defined by Section 5(a), 5(b), or 5(c) above, shall be forthwith removed from the City of Westmoreland. The provisions of this Section 7 permitting a dog of the breed described in Section 4(a) above to remain within the City of Westmoreland after January 1, 2016, shall only apply to a dog of the breed described in Section 4(a) which is legally registered in the City of Westmoreland prior to January 1, 2016, and such exception shall not apply to any dog of the breed described in Section 4(a) which is brought into the City of Westmoreland after January 1, 2016.

**SECTION 8:** It shall be unlawful for any person to own, keep, or harbor within the City of Westmoreland, Kansas, any aggressive dog, as defined in Section 5 above, unless such person shall keep such dog muzzled with a good or sufficient muzzle, or securely fastened and tied 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 and posting a sign warning the public of the aggressive dog. It shall further be unlawful for the owner, keeper, or harborer of such aggressive dog to permit such dog to run at large within the City. Any dog of a breed described in Section 4(a) that is an Aggressive Dog as defined by Section 5(a), 5(b), or 5(c) above, shall be forthwith removed from the City of Westmoreland.

**SECTION 9.** 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 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 dogs older than six months of age, whether such dogs are owned, kept, or harbored by one person or more than one person.

**SECTION 10.** Ordinance Number 506 is hereby repealed as of the effective date of this Ordinance.

**SECTION 11.** Penalties. Any person violating the provisions of this Ordinance shall be deemed guilty of a class B misdemeanor, and may be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00), or sentenced to a jail term of not more than six months, or both. Upon conviction of a violation of this Ordinance, in addition to any other penalties that may be imposed upon such conviction, the Court may Order the removal of such dog from the City of Westmoreland. Further, upon a conviction of a violation of this Ordinance, where such dog has bitten any person, the Court may order the euthanization of such dog. Should any defendant fail or refuse to comply with any Order of the Court regarding removal of a dog from the City, the Court may find such defendant in contempt and the Court may order the immediate confiscation and impoundment of such dog.

**SECTION 12.** Effect. This Ordinance shall take effect and be in full force from and after January 1, 2016.

Passed and adopted by the City Council of the City of Westmoreland, Kansas, this 10<sup>th</sup> day of December, 2015.

ss:// Mark A. Goodenow  
Mayor

Attest: SEAL

ss:// Vicki B. Zentner  
City Clerk