

## **ORDINANCE NUMBER 544**

**AN ORDINANCE REQUIRING THE 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 APPOINTMENT OF AN ANIMAL CONTROL OFFICE; PROVIDING FOR THE CAPTURE AND IMPOUNDMENT OF CERTAIN ANIMALS; PROVIDING FOR THE DISPOSITION OF DOGS OR CATS BY ADOPTION OR EUTHANASIA; AND REPEALING ORDINANCE NUMBER 433 AND ANY AMENDMENTS THERETO.**

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

**SECTION 1:** 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 limits of the City of Westmoreland, Kansas, without first having paid a yearly license fee or tax thereon.

**SECTION 2:** 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; provided however, that the provisions of this section shall not apply to nonresidents temporarily in the City for a period of less than two (2) weeks, nor to 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 3:** License Fee. Any person who shall own, keep, or harbor any dog or dogs over six (6) months of age within the corporate limits of the City of Westmoreland, Kansas, shall pay to the City Clerk an annual fee or tax on each such dog as follows: (a) Neutered male or spayed female dog--\$5.00; (b) Unneutered male or unsprayed female dog --\$15.00. Such license fee or tax shall be due and payable on or before April 1 of each year, or upon the date of acquisition of any such do or dogs, or within thirty (30) days after such dog reaches the age of six (6) months. Except as provided in Section 7 below, if such license fee or tax is not paid on or before April 1 of each year, or upon the date of acquisition of any such dog or dogs, or within thirty days after such dog reaches the age of sic (6) months, a penalty of fifty cents (\$.50) per month shall be added. The full amount of the annual license fee or tax shall be required regardless of the time of year such license fee is paid.

**SECTION 4:** Tag and Collar. Upon registration and payment of the license fee or tax imposed by Section 3 above, the City Clerk shall issue to the owner a license certificate and metallic tag 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 which 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 (\$.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 licvense fee because of the death of the dog or the removal of the dog from the City before the expiration of the license.

**SECTION 5.** 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 Section 7 below as to information to be recorded regarding such do or other animal, and the giving of notice.

**SECTION 6. 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 7. 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 t 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 her 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 harborers 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. Id 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 at 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 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 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 with the five 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 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 euthanization, or by delivering such dog or cat or other animal to a facility for the euthanizing of such dog or cat 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 8. 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 and 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 9. Penalties.** Any person violating the provisions 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 or subsequent conviction.

**SECTION 10.** 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 11.** 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 12.** Repeal. Ordinance Number 433 and any amendments thereto, and all other Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 13.** Effect. This Ordinance shall take effect and be in full force from and after its passage and publication in the official city newspaper.

Passed and adopted by the City Council of the City of Westmoreland, Kansas, this 8<sup>th</sup> day of January, 2015.

ss://Mark A. Goodenow  
Mayor

Attest:

ss://Vicki B. Zentner  
City Clerk

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