

ORDINANCE NO. 999

AN ORDINANCE PROVIDING FOR THE REPEAL OF CHAPTER II. OF THE WESTWOOD MUNICIPAL CODE RELATING TO ANIMAL CONTROL AND REGULATION AND ADOPTING SUBSTITUTE REGULATIONS THEREFORE.

WHEREAS, the City of Westwood ("City") previously provided for the regulation and control of animals pursuant to Chapter II of the City Code including the delegation of animal control activities to the Northeast Animal Control Commission ("NEACC");

WHEREAS, the NEACC will cease to exist effective December 31, 2018 and the City has accordingly terminated its participation in the NEACC;

WHEREAS, the City has elected to provide for the regulation and control of animals primarily through interlocal agreement;

WHEREAS, the termination of the NEACC and the City's regulation and control of animals primarily through interlocal agreement necessitated revision to Chapter II of the City Code;

WHEREAS, the City has also elected to update numerous other provisions of Chapter II of the City Code;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

SECTION 1: Chapter II of the City Code for the City of Westwood relating to the regulation and control of animals is hereby amended in its entirety and shall provide as follows:

CHAPTER II. ANIMAL CONTROL AND REGULATION

- Article 1. Animals and Fowl Generally
- Article 2. Dogs and Cats
- Article 3. Northeast Animal Control Commission
- Article 4. Bees
- Article 5. Animal Nuisances
- Article 6. Other Animals

ARTICLE 1. ANIMALS AND FOWL GENERALLY

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

- (a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.
- (b) Animals - means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Shelter - means the facility or facilities operated by the city or its authorized agents or an authorized service provider for the purpose of impounding, adopting or caring for any seized, stray, homeless, relinquished or abandoned animals under the authority of this chapter or state law.

(d) At-large - means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.

(e) Bite - means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(f) Cat - means any member of the species felis catus, regardless of sex.

(g) Dog - means any member of the species canis familiaris, regardless of sex.

(h) Fowl - means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons. Generally excepting parrots, parakeets and similar birds commonly kept as pets.

(i) Harbor - means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

(j) Impoundment - means taking an animal into the confinement, care, or custody of the city or its designated animal control entity, including, but not limited to, the municipal pound as designated herein.

(k) Kennel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than five dogs.

(l) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(m) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(n) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(o) Owner - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(p) Vaccination - means an injection of a vaccine, approved by the State Department of Health and Environment and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(q) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

(Ord. No. 999)

2-102.

CRUELTY TO ANIMALS. It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise

cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-103.

(d) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(e) Neglect or refuse to supply such animal with Necessary and Adequate Care necessary for health and well-being of such kind of animal. For purposes of this Section, Necessary and Adequate Care shall be defined to include the normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal, which includes, but is not limited to:

i). Provision of adequate food including wholesome foodstuffs suitable for the species provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in an animal considering its age and condition;

ii). Provision of adequate health care including the provision to each healthy animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death;

iii). Provision of adequate shelter including a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, conditions and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather condition; and,

iv). Provision of adequate water including continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to maintain good health in the animal.

(f) Abandon or leave any animal in any place without making provisions for its proper care;

(g) These provisions shall not apply to the exceptions sanctioned under section 2-103.

(h) By any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances;

(i) To leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as less than thirty degrees Fahrenheit (30° F.) or more than eighty degrees Fahrenheit (80° F.).

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible. (Ord. No. 999)

2-103.

SAME; EXCEPTIONS. The provisions of section 2-102 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

- (b) Bona fide experiments carried on by commonly recognized research facilities;
- (c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- (d) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;
- (e) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;
- (f) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments;
- (g) Normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto. (Ord. No. 999)

2-104. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

- (a) The maintaining of dogs which are regulated by Article 2 of this chapter;
- (b) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, fish, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
- (c) The transporting of animals through the city by ordinary and customary means. (Ord. No. 999)

2-105. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap. Nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. This Section shall not apply to the use of any trap specifically designed to kill rats, mice, gophers, moles, or vermin of significance to the public health. (Ord. No. 999)

2-106. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least daily from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences, except invisible pet fences, shall not be permitted for animal confines.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected. (Ord. No. 999)

2-107. KEEPING OF LIVESTOCK OR FOWL PROHIBITED. It shall be unlawful for any person, either as owner, or as the agent, representative employee or bailee of any owner, or for any firm or corporation to keep, harbor or maintain any cattle, hogs, horses, mules, sheep, goats or other animals, chickens, ducks, geese, turkeys, or any other domestic fowl on any premises within the corporate limits of the city. (Ord. No. 999)

2-108. VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer, if he or she reasonable believes said animal to be dangerous to the public health, welfare, or safety.

(b) Defined: For purposes of this chapter a vicious animal shall include:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(2) Any animal which attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(5) Any pit bull dog. Pit bull dog is defined to mean any and all of the following dogs:

(A) The Staffordshire Bull Terrier breed of dog;

(B) The American Staffordshire Bull Terrier breed of dog;

(C) The American Pit Bull Terrier breed of dog;

(D) Dogs which have the appearance and characteristics of being predominantly of the breed of dogs known as Staffordshire Bull Terrier; American Staffordshire Terrier; or American Pit Bull Terrier;

(E) Presa Canario.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation

of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

- (1) The seriousness of the attack or bite;
- (2) Past history of attacks or bites;
- (3) Likelihood of attacks or bites in the future;
- (4) The condition and circumstances under which the animal is kept or confined;
- (5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge may order the impoundment of the animal, and / or the removal of the animal from the city. If such impoundment, or removal from the city is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.

(g) Confinement; Destruction; Removal by Judge. The municipal court judge shall have the authority to order any animal deemed to be dangerous or vicious to be confined, destroyed or permanently removed from the corporate City limits. (Ord. No. 999)

2-109. RESERVED. (Ord. No. 999)

2-110. IMPOUNDMENT; FEE; NOTICE; RECORD.

- (a) The animal control officer shall impound any animal found at-large in the City or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the City. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.
- (b) In case the identity of the owner of the impounded animal cannot be ascertained, the animal control officer or law enforcement officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding.
- (c) The city and/or the municipal pound shall be entitled to charge a fee for impoundment, together with any other fees or charges for feeding and maintaining any impounded animal. (Ord. No. 999)

2-111. REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-108 (vicious) and 2-112 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Ord. No. 999)

2-112. IMPOUNDMENT OF RABIES SUSPECTS. (a) Any animal control officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the State Department of Health and Environment.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer to be killed and examination made by the State Department of Health and Environment.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person,

which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal. (Ord. No. 999)

2-113. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer, animal control officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Ord. No. 999)

2-114. ANIMAL CONTROL OFFICER; AUTHORITY TO IMPOUND; CITATION ALTERNATIVE. (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. The City may provide for the designation of the position of animal control officer through an appropriate interlocal agreement providing for the delegation of some or all of the duties of the animal control officer. Any person designated by the city as an animal control officer shall have such powers and authority as allowed by law in the enforcement of this chapter. Such animal control officers shall not have authority to issue municipal court citations for violation of this chapter which authority is reserved to law enforcement officers employed by the City.

(b) Animal control officers in enforcing this chapter may:

1). Take up and impound all animals found in the City in violation of the provisions of this Article;

2). Enter without a warrant upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence structure, and to seize such animal from said private property;

3). Enter without a warrant upon private property to apprehend a dangerous animal, a wild creature, or an animal suspected of being infected with rabies where such animal is found in plain sight, other than in a residential structure, and to seize such animal from said property;

4). Enter upon private property to investigate cruelty to animals; and,

5). Destroy, without notice, any animal that is dangerous, fierce or vicious; suspected of being infected with rabies, distemper or other zoonotic disease that presents an immediate danger to the public health and safety; or that is injured severely with no apparent chance of survival or in such pain as to warrant humane destruction.

(c) Law enforcement officers of the City may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall appear in the municipal court of the city to answer the charged violation of this chapter. In exercising such citation authority, law enforcement officers may exercise such powers of animal control officers identified in sub-section

(b) of this section incident to and necessary to the exercise of such citation authority. (Ord. No. 999)

2-115. SAME; CAPTURE/DESTRUCTION. When deemed necessary by the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal as defined in 2-112, any vicious animal as defined in section 2-108, or any animal creating a nuisance as defined in section 2-502, where such animal is impossible or impractical to catch, capture or tranquilize, or whenever any animal poses a danger to persons, other animals, or property. (Ord. No. 999)

2-116. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the animal control officer or any law enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition or violation which creates an unsafe, dangerous or hazardous condition, the animal control officer or law enforcement officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the animal control officer or law enforcement officer by this chapter; provided that if such building or premises be occupied, such officer shall first present proper credentials and request entry; and if such building or premises be unoccupied, such officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the animal control officer or law enforcement officer shall seek and obtain a search warrant prior to making entry. When the animal control officer or law enforcement officer shall have first obtained a proper search warrant to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the animal control officer or law enforcement officer for the purpose of inspection and examination pursuant to this chapter. (Ord. No. 999)

2-117. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report

the accident to the animal control officer or any law enforcement officer. (Ord. No. 999)

2-118. **EMERGENCY; PROCLAMATION.** The chief of police is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal may be prosecuted for such violation thereof. (Ord. No. 999)

2-119. **DEATH OF ANIMALS.** All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Ord. No. 999)

2-120. **MUNICIPAL POUND ESTABLISHED.** A municipal pound shall be designated to carry out the provisions of this chapter. Such a pound may be operated under the authority of a contract with the City by a contractor or sub-contractor and all services required herein may be provided by a contractor or sub-contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

 (a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

 (b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

 (c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

 (d) Facilities for the humane destruction of animals. (Ord. No. 999)

2-121. **BREAKING POUND.** (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

 (b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals. (Ord. No. 999)

ARTICLE 2. DOGS AND CATS

2-201. **REGISTRATION AND VACCINATION REQUIRED; FEE.** (a) Every owner of any dog or cat over six months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat, or any dog or cat brought into the city to fail to register such

animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog or cat.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over six months of age to fail to maintain effective rabies immunization of such dog or cat.

(c) The owner or harbinger of any dog or cat shall, at the time of registering such dog, present to the city clerk a certificate from an accredited veterinarian showing that a male dog or cat has been neutered or a female dog or cat has been spayed, if the dog or cat has been neutered or spayed.

(d) The city clerk shall collect an annual registration fee as established by resolution by the governing body for each neutered male dog or cat and for each spayed female dog or cat, and an additional fee as established by resolution by the governing body for each unneutered male dog or cat and for each unspayed female dog or cat.

(e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty.

Every owner or harbinger of dog(s) or cat(s) who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee a penalty fee for late registration as established by resolution by the governing body. (Ord. No. 999)

2-202. TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs and cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a fee as established by resolution by the governing body. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Ord. No. 999)

2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Ord. No. 999)

2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any law enforcement officer. (Ord. No. 999)

- 2-205. VISITING DOGS and CATS. The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 60 days. However, such dogs or cats shall be kept under restraint by the owner thereof at all times. (Ord. No. 999)
- 2-206. RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harborer of any dog or cat to permit such animal to run at large within the city at any time;
(b) Any dog or cat running at large within the city shall be impounded as set out in section 2-207;
(c) The owner of any dog or cat impounded for running at large without the tag required by section 2-201 shall, for the first offense, pay a fine of \$50.00 plus the board bill. For a second offense of running at large without a tag, the fine shall be \$200.00.
(d) For the first offense of an animal running at large with a tag as required by section 2-201, the owner or harborer claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harborer shall pay a fine of \$50.00 plus the board bill. For a third and all subsequent offenses within a one year period, the owner or harborer shall pay a fine of \$100.00 plus the cost of the board bill. (Ord. No. 999)
- 2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
(a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city.
(b) A record of all dogs and cats impounded shall be kept by the municipal pound containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
(c) No dog or cat impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog or cat through time periods ordinarily accepted as usual business hours. During such time of custody, the city, the animal control officer or the municipal pound shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog or cat may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog or cat was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog or cat is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog or cat, then the animal may be sold, euthanized or otherwise disposed of.
(d) If at any time before the sale or destruction of any dog or cat impounded under the provisions of this article, the owner of an impounded dog or cat does appear and redeem the animal, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and shall not apply to any dog alleged as being vicious under Section 2-108 of this Code or suspected of rabies under Section 2-112 of this Code.
(e) The minimum impoundment fee shall be the same as in 2-110.
(f) Any dog or cat impounded may not be released without a current rabies vaccination.

(g) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

(h) The redemption of any dog or cat impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog or cat. (Ord. No. 999)

2-208. DISPOSITION OF UNCLAIMED DOGS AND CATS. If any dog or cat is not redeemed by its owner or harborer within the time allowed for redemption as specified in section 2-206 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year. (Ord. No. 999)

2-209. CONFINEMENT OF DOGS AND CATS IN HEAT. Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog(s) or cat(s) may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Ord. No. 999)

2-210. LIMIT ON DOGS AND CATS. (a).It shall be unlawful to have more than two dogs and two cats over the age of three months, in any household residentially zoned property, without a special permit from the governing body. A special permit for a third dog or a third cat may be approved administratively by the City Clerk. The application fee for such special permit shall be established by resolution by the governing body. No special permit shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the premises and compliance with the applicable laws of the City. The City shall not allow more than three dogs or three cats per residence.

(b). Special Permits must be renewed annually.

(c). Should the City Clerk find cause to refuse either issuance or renewal of the special permit the applicant may appeal such determination to the City Council for determination. Upon receipt of a complaint relating any dogs or cats for which a special permit is required pursuant to subsection (a) above, the City Clerk may revoke any previously issued special permit, which revocation may be appealed to the City Council for determination.

(d). The City Council may refuse to renew, may suspend or may revoke a special permit if it finds any of the following:

(1) The premises are being maintained in violation of any applicable law of the State of Kansas, or of the City.

(2) The premises are being maintained so as to be a public nuisance.

(3) The premises are being maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity. (Ord. No. 999)

2-211. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Ord. No. 999)

ARTICLE 3. RESERVED. (Ord. No. 999)

ARTICLE 4. BEES

2-401. KEEPING OF BEES. It shall be unlawful for any person to place, establish or maintain any colony of bees in or upon any premises within the corporate limits of the city unless the bees are kept in accordance with the provisions of this article. (Ord. No. 999)

2-402. LICENSE REQUIRED. It shall be unlawful for any person to place or keep an apiary upon any property within the city limits without a license issued by the city clerk. The fee shall be set by resolution of the governing body of the city, and the fees shall defray, in part, the cost of inspection and enforcement of this article. The license shall be valid for a period of three years from the date of issuance. (Ord. No. 999)

2-403. DEFINITIONS. As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

(a) Apiary - A place where bee colonies are kept.

(b) Bee - Any stage of the common domestic honey bee, *Apis Mellifera* species.

(c) Colony - A hive and its equipment and appurtenances including bees, comb, honey, pollen, and brood.

(d) Hive - A structure intended for the housing of a fee colony.

(e) Tract - A contiguous parcel of land under common ownership. (Ord. No. 999)

2-404. CERTAIN CONDUCT DECLARED UNLAWFUL. (a) The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.

(b) Notwithstanding compliance with the various requirements of this article it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the

normal use and enjoyment of any public property or property of others. (Ord. No. 999)

2-405. HIVES. All bee colonies shall be kept in Langstroth type hives with removable frames, which shall be kept in sound and usable condition. (Ord. No. 999)

2-406. WATER. Each beekeeper shall ensure that a convenient source of fresh, clean water is available at all times on his / her property to the bees so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact. (Ord. No. 999)

2-407. GENERAL MAINTENANCE. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee proof enclosure. (Ord. No. 999)

2-408. QUEENS. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly requeen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics. (Ord. No. 999)

2-409. COLONY DENSITIES. (a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:

(1) One-quarter acre or less tract size - two colonies;

(2) More than one-quarter acre but less than one-half acre tract size - four colonies.

(b) For each two colonies authorized under colony densities (subsection (a)) there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 95/8 inch depth ID frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within 30 days after the date is acquired. (Ord. No. 999)

2-410. MARKING HIVES; PRESUMPTION OF BEEKEEPING. (a) In apiaries the name and telephone number shall be branded, painted, or otherwise clearly marked upon the structure of at least two hives and place at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name, address and telephone number of the beekeeper.

(b) Unless marked in accordance with subsection (a) it shall be presumed for purposes of this article that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address, and telephone number of the other person who is acting as the beekeeper. (Ord. No. 999)

2-411. INSPECTION. The city inspector or his or her designated agent shall have the right to inspect any hive between the hours of 8:00 a.m. and 5:00 p.m. Where practicable, prior notice shall be given to the beekeeper if he or she resides at the apiary or if his or her name is marked on the hives. The provisions of this section shall not be construed to require the inspection for the destruction of (1) any bee colony not residing in a hive structure intended for beekeeping or (2) any swarm of bees or (3) any colony residing in a beekeeping hive, which by virtue of its condition, has obviously been abandoned by the beekeeper. (Ord. No. 999)

2-412. PUBLIC NUISANCE. Colonies kept contrary to this article are hereby declared a public nuisance and may be abated according to law. (Ord. No. 999)

ARTICLE 5. ANIMAL NUISANCES

2-501. NUISANCE PROHIBITED. It shall be unlawful for the owner or harbinger of any animal to cause or permit such animal to perform, create or engage in an animal nuisance. Any animal found acting in any way forbidden by this article, in the determination of the animal control officer and/or law enforcement officer, shall hereby be declared a nuisance and its owner or harbinger shall be subject to citation. (Ord. No. 999)

2-502. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined to include, but not be limited to, any animal which:

(a) Runs at large or upon the private property of any other person or firm than the owner;

(b) Molests or disturbs persons or vehicles by chasing, barking, or biting, or otherwise interferes with their use of public property including the public right-of-way;

(c) Attacks or injures persons, or other domestic animals;

(d) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;

(e) Scatters refuse that is bagged or otherwise contained;

(f) Creates noxious or offensive odors;

(e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

Any animal found acting in any way forbidden by this Section, in the determination of a law enforcement officer, shall hereby be declared a nuisance, and its owner shall be subject to citation. Knowledge, intent or scienter is not required for this offense. If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (Code 2008)

2-503. NOISY ANIMALS. (a). No person shall own or keep any animal that, by making excessive noise, disturbs an individual residing in, working in or owning a structure that is within 600 feet of the property on which the animal is kept.

(b). For purposes of this section, excessive noise means and includes any noise produced by an animal that is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor of reasonable sensibilities.

(c). It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner. (Ord. No. 999)

2-504. EXCREMENT. (a) It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement.

(b) It shall be unlawful for any person to fail to immediately remove any excrement deposited by his or her animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a blind or disabled person while walking his or her work dog. (Ord. No. 999)

2-505. FEMALE IN HEAT. All female animals in heat shall be confined in an enclosure or building in such a manner that the animal cannot come into contact with a male animal except for planned breeding. (Ord. No. 999)

2-506. DISEASED ANIMALS. It shall be unlawful for the owner of any domestic animal to knowingly cause or allow the same to run at large or be exposed in any public place anywhere in the city; or to ship or remove such animal from the owner's premises when same is afflicted with a contagious or infectious disease except under the supervision of the animal control officer. It shall be the duty of the animal control officer to order the disposition of such diseased animal and treatment of the affected premises to prevent the communication and spread of contagion or infection except in cases where the state veterinarian is empowered to act and does act. (Ord. No. 999)

2-507. DAMAGE TO PROPERTY. It shall be unlawful for any person owning or possessing a dog, cat, or other animal to permit such dog, cat or animal to go upon any sidewalk, or private lands or premises without the permission of the owner of such premises and break, tear up, crush, urinate, defecate, or otherwise destroy, damage, or disturb any lawn, flower bed, plant, shrub, tree, garden, trash collection, house, structure, or any personal property in any manner whatsoever. (Ord. No. 999)

2-508. PENALTY. Any person violating any of the provisions of this article shall upon conviction thereof be fined in a sum not exceeding \$500.00 or be imprisoned not to exceed 180 days, or be both so fined and imprisoned. (Ord. No. 999)

ARTICLE 6. OTHER ANIMALS

2-601. EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cattle, Bovine, livestock
- (9) Cheetahs.
- (10) Crocodilians, 30 inches in length or more.
- (11) Constrictor snakes, six feet in length or more.
- (12) Coyotes.
- (13) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (14) Eagles
- (15) Elephants.
- (16) Falcons
- (17) Game cocks and other fighting birds.
- (18) Hawks
- (19) Hippopotami.
- (20) Hyenas.
- (21) Jaguars.
- (22) Leopards.
- (23) Lions.
- (24) Lynxes.
- (25) Monkeys.
- (26) Ostriches.
- (27) Owls and other raptors
- (28) Pigs
- (29) Pumas; also known as cougars, mountain lions and panthers.
- (30) Raccoons.
- (31) Rhinoceroses.
- (32) Skunks.
- (33) Tigers.
- (34) Wolves.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

(1) Their location conforms to the provisions of the zoning ordinance of the city.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Ord. No. 999)


SECTION 2: All prior ordinances inconsistent herewith are hereby repealed.

SECTION 3: This Ordinance shall not take effect until January 1, 2019 providing that publication in the official city newspaper has occurred by this date, otherwise, this Ordinance shall take effect upon publication.

APPROVED by the Governing Body of the City of Westwood this 13th day of December, 2018.



John M. Yé, Mayor



Frederick L. Sherman, City Clerk

Approved as to form:



Ryan Denk, City Attorney

The Legal Record

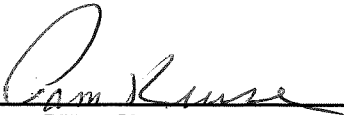
P.O. Box 273
Olathe, KS 66051-0273
(913) 780-5790

ATTN: FRED SHERMAN
CITY OF WESTWOOD
4700 RAINBOW BLVD
WESTWOOD KS 66205-1831

Proof of Publication

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Pam Kruse, of lawful age, being first duly sworn,
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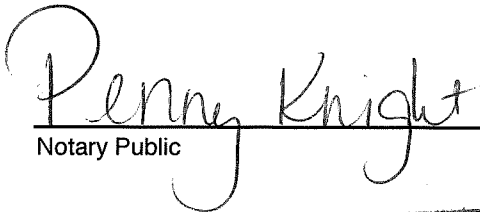
ORDINANCE # 999
12/18/18



Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

December 18, 2018



Notary Public

PENNY KNIGHT
Notary Public-State of Kansas
My Appt. Expires Dec. 31, 2021

L77546
Publication Fees: \$360.93