

BILL NO. 4415

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI TO REPEAL AND REPLACE CHAPTER SIX OF THE CODE OF ORDINANCES OF THE CITY OF WEST PLAINS TITLED ANIMALS AND FOWL.

WHEREAS, the City of West Plains, Missouri has reviewed Chapter Six, Animals and Fowl, of the Code of Ordinances for the City of West Plains and saw a need for an updated version.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI AS FOLLOWS:

Section 1: Chapter Six, Animals and Fowl, will be replaced with an updated version. (EXHIBIT A).

Section 2: This Ordinance shall be in full force and in effect after the date of its passage and approval.

PASSED AND APPROVED THIS 19th DAY OF JANUARY 2016.

CITY OF WEST PLAINS, MISSOURI

BY: _____
MAYOR JACK PAHLMANN

ATTEST:

CITY CLERK MALLORY HAWKINS

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- Chapter 6 - ANIMALS AND FOWL

- **ARTICLE I. - IN GENERAL**

- **Sec. 6-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate care means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal.

Adequate control means to reasonably restrain or govern an animal so that the animal does not injure itself, any person, any other animal, or property.

(Code 2002, § 10-1)

- **Sec. 6-2. - Appointment of animal control officer; duties.**

The mayor and city council shall appoint one or more persons as animal control officers. The animal control officer shall be responsible to the chief of police and shall be responsible for the following details:

(1)

The impoundment and disposal of all dogs running loose.

(2)

The citing and signing of charges against owners who violate this chapter. The animal control officer is hereby authorized and empowered to issue citations to persons violating this article to appear in municipal court and answer therefor.

(3)

The care of the pound and surrounding area.

(4)

The recording of all activities of the animal control department and submission of a written report each month.

(5)

The removal of all dead animals from city streets and rights-of-way. Where the animals are large and assistance is needed for the removal thereof, the animal control officer may request the assistance of the street department.

(6)

Keeping accurate records of impounding fees charged to and paid by owners or other persons allowed to reclaim impounded animals.

(7)

Collecting of fees for impounded and adopted animals at the Animal Control Facility. (The Police Department does not collect fees or release animals from the Animal Control Facility→)

(Code 1976, § 5-4; Code 2002, § 10-2)

- **Sec. 6-3. - Animal neglect and abandonment.**

- (a)

A person is guilty of animal neglect, which is prohibited, when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.

- (b)

A person is guilty of abandonment, which is prohibited, when he has knowingly abandoned an animal in any place without making provision for its adequate care.

(Code 1976, § 5-1; Code 2002, § 10-3)

- **Sec. 6-4. - Running at large.**

No horse, mule, ass, cattle, steer, cow, bull, calf, heifer, swine, sheep, hog, dog, chicken, guinea, goose, duck, turkey or other domestic fowl shall be allowed to run at large at any time within the corporate limits.

(Code 1976, § 5-5; Code 2002, § 10-4)

- **Sec. 6-5. - Authority to impound animals at large.**

- If any of the animals or domestic fowl mentioned in [section 6-4](#) shall be found running at large within the city in violation of this article, it shall be the duty of the animal control officer to take up and impound the animal or fowl in the city pound. If the enclosure of the city pound is not sufficient to restrain such animal or fowl, the animal control officer is authorized to rent or lease a suitable place within the city as a pound where such animal or domestic fowl may be impounded.

(Code 1976, § 5-6; Code 2002, § 10-5)

- **Sec. 6-6. - Releasing from pound without permission.**

- (a)

No person, without permission of the animal control officer, shall take any animal or fowl out of the city pound without first having paid the fees required in [section 6-45\(a\)](#).

- (b)

Any person who, without permission of the animal control officer and without having paid the required fees, shall take any animal or fowl out of the city pound or who shall break the enclosure of the pound shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided by [section 1-10](#).

(Code 1976, § 5-10; Code 2002, § 10-6)

- **Sec. 6-7. - Restraint of animals in public places.**

No domestic animal shall be allowed to run loose in any public facility or business open to the public. All animals at any public facility or business open to the public shall be restrained by a suitable leash or other device designed for the restraint of the animal.

(Code 1976, § 5-7; Code 2002, § 10-7)

- **Sec. 6-8. - Offensive or noxious smells or odors from enclosures.**

No person shall keep, cause or allow or permit to be kept, on any premises occupied by him or under his charge or control, any animal in a pen or other enclosure, so that an offensive or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any inhabitant of the neighborhood.

No person shall keep a dog pen on any property owned or controlled by him, the exterior boundary of which pen is closer than 25 feet at the nearest point to the dwelling of another, a church, a school or a place of business of another; nor shall any person keep a dog within 25 feet of a dwelling of another, a church, a school or a place of business of another.

For purposes of this section the word "pen" shall not include completely or substantially enclosed rear or front yards.

(Code 1976, § 5-11; Code 2002, § 10-8)

- **Sec. 6-9. - Killing birds.**

No person shall shoot at or in any manner kill or attempt to kill any insectivorous birds, except English sparrows, or rob or destroy birds' nests or their eggs.

(Code 1976, § 5-2; Code 2002, § 10-9)

- **Sec. 6-10. - Fights.**

- No person shall purposely cause dogs or other animals to fight within the city limits.

(Code 1976, § 5-3; Code 2002, § 10-10)

- **Sec. 6-11. - Disposition of animals with rabies.**

It shall be the duty of the animal control officer or any police officer to summarily kill and dispose of any animal suffering from rabies.

(Code 1976, § 5-23; Code 2002, § 10-11)

- **Secs. 6-12—6-40. - Reserved.**

- **ARTICLE II. - DOGS**

- **Sec. 6-41. - Authority of animal control officer to issue citation.**

The animal control officer is hereby authorized and empowered to issue citations to persons violating this article to appear in municipal court and answer therefor.

(Code 1976, § 5-41; Code 2002, § 10-36)

- **Sec. 6-42. - Penalty.**

(a)

Any person violating or failing to comply with any section of this article shall be deemed guilty of a misdemeanor and upon conviction shall be subject to the following fines and punishment:

(1)

For the first offense a minimum of \$10.00.

(2)

For the second offense a minimum of \$25.00.

(3)

For the third offense a minimum of \$50.00.

(b)

Under no circumstance shall a person be fined more than \$100.00 or penalized by both such fine and a jail sentence not to exceed three days in the city jail.

(Code 1976, § 5-45; Code 2002, § 10-37)

- **Sec. 6-43. - Rabies and distemper vaccination required.**

- Every person who owns, possesses, keeps or harbors a dog shall have the dog vaccinated against rabies and distemper.

(Code 1976, § 5-34; Code 2002, § 10-38)

- **Sec. 6-44. - Running at large.**

It shall be unlawful for any person to permit a dog possessed, kept or harbored by him to run at large, unless leashed, on the streets and alleys or public places or on private premises not under the control of the owner within the city limits.

(Code 1976, § 5-36; Code 2002, § 10-39)

- **Sec. 6-45. - Impoundment; redemption.**

(a)

A dog that is picked up in violation of 6-44 or on a street or on the property of a person other than the owner of the dog shall be immediately impounded. The owner of any such dog shall be notified and if he wishes to reclaim the dog will be charged an impounding fee as provided in the city fee schedule. There will also be a charge per day or any part thereof an amount as provided in the city fee schedule for feed and care.

(b)

The owner or possessor of any dog found running at large and picked up and placed in the city pound by the animal control officer within the city which dog has not been, at the date of its being picked up, vaccinated for rabies, shall, within five days from the date the dog is impounded, have the right to remove the dog from the city pound and have the dog vaccinated, but shall be subject to all penalties provided for in this article before removal.

(c)

Employees of the department of animal control and the West Plains Police department shall have the authority to enter upon private property in pursuing a dog or animal which is running at large and they shall have the authority to open gates, cross fences and take whatever steps that are necessary to abate the nuisance so as to impound the dog or animal that is running at large, except nothing contained in this section shall be construed to authorize the city employee to enter into a dwelling of a person.

(Code 1976, § 5-37; Code 2002, § 10-40; Ord. No. 4034, § 1, 7-23-2007)

- **Sec. 6-46. - Disposition of unclaimed dogs.**

- All impounded dogs shall be retained in the city pound for a minimum of five days. Dogs with no apparent owner shall be maintained for such minimum period at the city pound and at the end of such time no one has claimed the dog, the dog will be offered up for adoption at a fee as provided in the city fee schedule for dogs under six months of age and a fee as provided in the city fee schedule for dogs over the age of six months or put to death in as humane manner as allowed.

(Code 1976, § 5-38; Code 2002, § 10-41; Ord. No. 4034, § 2, 7-23-2007)

- **Sec. 6-47. - Returning to home before capture.**

If a dog returns to the property of its owner or keeper before capture, the animal control officer shall issue a written warning to the owner and on the second occasion shall file charges against the owner either on the basis of a signed complaint by a neighbor or upon the personal observation of the dog running at large by the animal control officer in accordance with section 6-41.

(Code 1976, § 5-39; Code 2002, § 10-42)

- **Sec. 6-48. - Acceptance of dogs turned in at pound.**

Upon payment of an impound fees as provided in the city fee schedule and proof of current rabies, parvo and distemper vaccinations, the animal control officer will accept dogs brought to the pound by private individuals residing in the city. Animals brought by nonresidents will be considered on an individual basis of need or other consideration.

(Code 1976, § 5-40; Ord. No. 4337, § 1, 2-18-2014)

- **Sec. 6-49. - Dangerous dogs to be chained.**

(a)

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous dog means any dog:

(1)

Which has inflicted a severe injury, as defined in this subsection, or a fatal injury, being on public or private property. The victim receiving severe injuries must provide the animal control officer or the chief of police with a signed physician's statement documenting the injury and the treatment qualifying such as a severe injury;

(2)

Which has bitten a human being, without provocation, on public or private property other than the property of the owner;

(3)

Which, while on the owner's property, has bitten, without provocation, a human being other than the owner or a member of the owner's family who normally resides where the dog is kept;

(4)

Which, while off the owner's property, has killed a domestic animal without provocation;

(5)

Owned or harbored primarily or in part for the purpose of fighting or trained for fighting;

(6)

Which, when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds or private property other than the property of the owner, in a menacing fashion or apparent attitude of attack, regardless of whether or not a person is injured by such dog;

(7)

With a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.

Severe injury means any physical injury resulting directly from an animal's bite, which results in broken bones, contusions or lacerations that require medical treatment from a health care professional.

(b)

No person shall keep on his premises or on premises controlled by him a dangerous dog, unless such dog shall be securely chained by a chain not more than ten feet long.

(c)

If, upon prosecution for violation of this section, it shall appear to the satisfaction of the court that it is necessary to the public safety that such a dog be killed, the court shall so order, adjudge and decree and the impounder shall execute the order of the court.

(Code 1976, § 5-42; Code 2002, § 10-44)

- **Sec. 6-50. - Confinement after having bitten person.**

If a person is bitten by a dog, upon written complaint to the animal control officer or any police officer, such dog shall be immediately placed in the city pound or confined in some reputable animal hospital for a period of ten days for observation. If the owner of such dog wishes it to be held in an animal hospital, he shall make request in writing to the officer taking charge of such dog, and the officer may deliver the dog to a reputable animal hospital after arrangements for the expense for keeping and caring for such dog are agreed upon by the owner of the dog and the management of the animal hospital. If such dog is placed in an animal hospital and found to be in normal health after ten days, the owner may redeem such dog by paying all fees to the animal hospital and the cost of food, as this article provides, and medical expenses. If the dog is kept in the city's Animal Control Facility there will be a fee charged, based on the City of West Plains fee schedule. This fee must be paid to reclaim the dog. If the owner does not redeem such dog after ten days, it shall be the duty of the animal control officer to dispose of the dog humanely under this article. No person shall refuse to deliver up to the Animal Control Officer his dog or animal when requested to do so under the provisions of this chapter.

(Code 1976, § 5-43; Code 2002, § 10-45)

- **Sec. 6-51. - Disposition of dogs with rabies.**

It shall be the duty of the animal control officer or any police officer to summarily kill and dispose of any dog suffering from rabies.

(Code 1976, § 5-44; Code 2002, § 10-46)

- **Sec. 6-52. - Number allowed; habitual barking.**

(a)

Number allowed. It shall be unlawful and a public nuisance for any person residing in the city to keep or allow to be kept more than three dogs over the age of six months unless the residence is:

(1)

Licensed as a commercial animal establishment.

(2)

Zoned agricultural pursuant to [chapter 50](#).

(b)

Removal. When animals in excess of the limit established in subsection (a) of this section are found at a residence, all of the animals found at the residence may be removed to the city dog pound and handled as stray animals, except that the person in charge of the residence may designate and retain up to three animals.

(c)

Habitual barking prohibited. A person shall not permit a dog owned by him or within his custody to habitually bark, thereby causing the peace of any person of ordinary temper and disposition to be unreasonably disturbed. A dog that habitually barks is declared to be a public nuisance.

(d)

The provisions of this chapter shall not apply to duly licensed Animal Shelter or a duly licensed Animal Veterinarian clinic or Animal hospital.

(Code 1976, § 5-44.1; Code 2002, § 10-47)

- **Secs. 6-53—6-77. - Reserved.**

- **ARTICLE III. - LIVESTOCK**

- **Sec. 6-78. - Keeping chickens.**

(a)

No person shall keep chickens or other fowl in any pen having an area of less than 144 square feet and the boundary of which is less than 50 feet from the dwelling or place of business of another. If more than 12 chickens are kept in a pen, the pen shall have an area equal to 12 square feet for each chicken kept therein.

(b)

No person shall keep chickens or other fowl in a battery located in a building or structure, other than a lawfully operated hatchery, unless the battery is located at least 50 feet at the nearest point from the dwelling or place of business of another. All batteries shall be constructed in such a manner as to prevent droppings from falling on the ground or floor.

(Code 1976, §§ 5-12, 5-13; Code 2002, § 10-76)

- **Sec. 6-79. - Keeping goats.**

No person shall keep any goat within 50 feet of the dwelling house or place of business of another, nor shall any person keep two or more goats, unless such goats are kept at a distance of at least 200 feet from the dwelling house or place of business of another.

(Code 1976, § 5-14; Code 2002, § 10-77)

- **Sec. 6-80. - Keeping sheep.**

No person shall keep any sheep within 50 feet of the dwelling house or place of business of another, nor shall any person keep two or more sheep, unless such sheep are kept at a distance of at least 200 feet from the dwelling house or place of business of another.

(Code 1976, § 5-15; Code 2002, § 10-78)

- **Sec. 6-81. - Keeping hogs.**

(a)

No person, other than a person lawfully operating a stockyard or slaughterhouse, shall keep or permit the keeping of hogs on premises owned or controlled by him, save and except as to premises which may be taken into the city by extension of the city limits, as to which premises hogs may be kept under the following conditions:

(1)

The hogs were kept on such premises at the time of such extension of the city limits and such keeping has not since been discontinued.

(2)

Such premises consist of at least five contiguous acres.

(3)

The number of hogs shall not exceed one per each one-half acre of such premises where they are permitted to be kept, and they are not kept in a common pen or sty.

(4)

Such hogs are not kept within 300 feet of the dwelling house or place of business of another.

(b)

Pot-bellied pigs are permitted to be in the City in accordance with the provisions set forth herein:

- (1) No more than one (1) pot-bellied pig may be kept on any one (1) parcel or tract of land in a residentially zoned district and in accordance with applicable land used regulations.
- (2) Such pot-bellied pig shall not be kept within 100 feet of the dwelling house or place of business of another and shall be contained to said yard and not be allowed to roam freely within the city with the exception of the yard of the property at which it resides.
- (3) The premises where any such pig is kept shall be kept clean and free of all offensive odors, flies, rodents or other pests. Droppings shall be placed in the suitable container and disposed of on a regular basis.
- (4) No such pigs may be bred within a residentially zoned district.
- (5) All male pot-bellied pigs in the City in a residentially zoned district must be neutered.
- (6) All pot bellied-pigs must have their tusks either surgically removed or trimmed so as to be blunted at all times.

- (7) Owner shall have pot-bellied pig up to date on shots and properly vaccinated by a licensed veterinarian and be able to provide such proof of such upon request.

(Code 1976, § 5-16; Code 2002, § 10-79)

- **Sec. 6-82. - Keeping cattle, mules, jacks or horses.**

No person shall keep a cow, bull, mule, jack or horse in a building, enclosure or pasture, the exterior boundary of which is within 100 feet of the dwelling house or place of business of another. No person shall keep more than one such animal, unless there is at least 21,780 square feet for each such animal; provided, however, this shall not apply as to the keeping of suckling offspring of a cow or mare. No animal shall be pastured in such a manner as to permit the animal to go upon a sidewalk or street.

(Code 1976, § 5-17; Code 2002, § 10-80)

- **Sec. 6-83. - Disposition of manure in stables.**

Every stable, shed or other building where a horse, cow or other animal is kept shall have either within or immediately adjoining it a flyproof, covered, watertight box, bin or other receptacle for receiving and holding manure and litter accumulating between the times of removal from the premises. Such receptacle shall be kept tightly closed at all times except when being filled or emptied and shall be completely emptied whenever full, such emptying to take place at least once each week from April 1 to November 1. Such receptacle shall be cleaned and disinfected with a solution of lime or other disinfectant whenever so ordered by a duly designated city officer or employee.

(Code 1976, § 5-18; Code 2002, § 10-81)

- **Sec. 6-84. - Removal of manure.**

(a)

No manure shall be thrown or deposited in any alley, street or public place or on any vacant lot, provided that the scattering of manure on lawns or gardens for fertilizing purposes shall be permitted if it is not of such a nature as to be a nuisance to the surrounding neighborhood.

(b)

No manure shall be transported over the streets in such a manner as to permit it to drop out on the streets, and no vehicle hauling manure shall stand on any street, except for the purpose of loading or unloading.

(Code 1976, § 5-19; Code 2002, § 10-82)

- **Sec. 6-85. - Cleaning and disinfecting of stable floors.**

The floors of the buildings used for keeping any horse, cow or other animal shall be cleaned daily and all manure and litter removed and deposited in the receptacle required in [section 6-83](#). The floors shall be disinfected with a solution of lime or other disinfectant whenever so ordered by a duly designated city officer or employee.

(Code 1976, § 5-20; Code 2002, § 10-83)

- **Sec. 6-86. - Yards surrounding stables.**

All yards surrounding stables or buildings where animals are housed shall be kept well drained and free from standing water and filth.

(Code 1976, § 5-21; Code 2002, § 10-84)

- **Sec. 6-87. - Stud service animals restricted.**

Any person who shall keep and stand for service any stallion, jackass or bull within the city, unless such animal is kept in such an enclosure so as to exclude from public view, shall, upon conviction, be adjudged guilty of a misdemeanor.

Sec 6-88. Animal abuse.

(1) A person commits the offense of animal abuse if he or she:

- a. Placing poison so as to constitute a hazard to humans or animals.
- b. Cause prostration, convulsion, pain or suffering as a prelude to death.
- c. Cause death: or
- d. Be proven that the substance be toxic or lethal in the amount present to any man or domestic animal by competent medical or veterinary authority.
- e. Having ownership or custody of an animal knowingly fails to provide adequate care which results in substantial harm to the animal.

Any person violating or failing to comply with any section of this article shall be deemed guilty of a misdemeanor and upon conviction shall be subject to the following fines and punishment set forth in section 6-42.

(Code 1976, § 5-22; Code 2002, § 10-85)