

ORDINANCE NO. 537

AN ORDINANCE RELATING TO ANIMAL CONTROL WITHIN THE CITY OF WATHENA, KANSAS, INCLUDING THE IMPLEMENTATION AND ENFORCEMENT OF A "LEASH LAW" WHICH WILL REQUIRE THE CONTINUOUS CONFINEMENT OR CONTROL AT ALL TIMES OF ALL DOGS WITHIN THE CITY OF WATHENA; PROVIDING FOR THE ANNUAL LICENSING AND REGISTRATION OF ANIMALS AND PRESCRIBING A PROCEDURE THEREFOR, PROVIDING FOR THE IMPOUNDMENT AND DISPOSITION OF CERTAIN ANIMALS AND PRESCRIBING A PROCEDURE THEREFOR, PROVIDING FOR AN IMPOUNDMENT FACILITY, IMPOSING AND LEVYING AND PROVIDING FOR THE COLLECTION AND DISPOSITION OF CERTAIN TAXES, FEES AND OTHER COSTS, CREATING AND DEFINING CERTAIN MISDEMEANORS AND PRESCRIBING A PENALTY FOR CONVICTION THEREOF, AND REPEALING ORDINANCE NOS. 429, 433 AND 469 AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF WATHENA IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA:

SECTION 1. DEFINITIONS. When used in this Ordinance:

- a. "Person" means an individual, public or private corporation, Government, partnership, or unincorporated association.
- b. "Owner" means any person who has, or claims to have, any interest or ownership in any animal located within the City.
- c. "Harborer" means any person who shall permit or allow any animal to be or remain upon or within or be given food or fed upon or within any part of any real estate within the City, either business or residential, which such Person owns, leases, rents or otherwise possesses or controls for a period of more than three (3) consecutive days.
- d. "City" means the City of Wathena, Kansas, the Governing Body thereof, and all real property situate within the corporate limits of said City.
- e. "Enforcing Officer" means the duly appointed, qualified and acting Marshal - Chief of police of the City of Wathena, Kansas, and all persons appointed and designated by such City Marshal to assist him in administering the terms and provisions of this Ordinance.
- f. "Vaccination" and "Vaccinated" each mean inoculation or vaccination of an animal for rabies by a licensed and registered veterinarian with an anti-rabies vaccine which has been approved by the Kansas Department of Health and Environment.
- g. "Certificate of Vaccination" means the certificate issued by a registered and licensed veterinarian showing that an animal for whom a license is applied for under this Ordinance has had a vaccination which will remain effective for the entire period of time involved under the license applied for.
- h. "Running at Large" means any dog that: (i) is not confined in or by a building, fence or cage or within a vehicle, or (ii) is not restrained by

means of a lead, leash, rope, chain or cord held by the dog's Owner or Harboring or a designee thereof, or (iii) is not securely tied, fastened or restrained by a rope, chain or cord of a type sufficient to retain the dog within the Owner's or Harboring's premises.

- i. "Animal" means any dog or cat when used in any section or subsection of this Ordinance.
- j. "Kennel Animal" means any animal which is bred, trained, boarded or kept at any business or establishment within the City which breeds, trains, boards, keeps or otherwise cares for the animal of other Persons as a business and for a charge or fee, provided, however, that the owner or operator of the kennel at which any such animal is kept shall have been duly registered and approved by the City as a kennel under this definition as a condition precedent to harboring any "Kennel Animal".
- k. "Visiting Animal" means any animal temporarily in the City accompanied by its Owner or Harboring who is a non-resident of the City, provided, however, that an animal visiting in the City for more than Ten (10) days shall be subject to registration and licensing as herein required.
- l. "In Heat Dog" means any female dog during its regularly recurrent period of ovulation and sexual excitement technically known as estrus.
- m. "Vicious Animal" means any animal which possesses fierce, dangerous, mean, ill tempered or vicious propensities.
- n. "Nuisance Animal" means any animal which annoys or causes trouble or vexation or that works harm, inconvenience or damage or which interferes with the personal or property rights of persons and the enjoyment thereof and such term includes, but is not limited to, animals which engage in any one of the following: (i) excessive, continuous or untimely barking, (ii) molesting or interfering with passersby, (iii) chasing vehicles, (iv) attacking other domestic animals, (v) trespassing upon private or public property in such manner as to damage such property.
- o. "Restricted Animal" means any "Kennel Animal", "In Heat Dog", "Nuisance Animal" or "Vicious Animal", as such terms are herein defined.
- p. "Unlicensed Animal" means any animal which is required to be registered and licensed under the provisions of this Ordinance and which is not currently so registered and licensed. The presumption shall exist that any animal not displaying and carrying a metallic tag as required by Section 6 of this Ordinance is an "Unlicensed Animal" as herein defined, provided, however that such presumption may be overcome by the Owner or Harboring of such animal upon timely presentation to the Enforcing Officer of proper evidence of such ownership and current registration and licensing.

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SECTION 2. HARBORING AN UNLICENSED ANIMAL. (a) Except as provided in subsection (b) hereof, no Owner or Harboring shall own or harbor any animal over six (6) months of age within the City without first having said animal registered and licensed as required under this Ordinance.

(b) The provisions of this Section shall not apply to a Kennel Animal or a Visiting Animal.

(c) Owning or harboring an Unlicensed Animal in violation of (a) above is a misdemeanor.

SECTION 3. ANNUAL TAX IMPOSED, REGISTRATION AND LICENSE REQUIRED; EXEMPTIONS THEREFROM. (a) Except as provided in subsection (b) below, the Owner or Harboring of any animal within the City shall annually register such animal with the Enforcing Officer, secure an animal license therefor and pay an annual tax upon each such animal which tax is hereby imposed as follows:

- (i) Four Dollars (\$4.00) for each male animal or spayed female animal.
- (ii) Six Dollars (\$6.00) for each unspayed female animal.

(b) The provisions of subparagraph (a) of this Section shall not apply to any Visiting Animal or to any Kennel Animal or to any animal under the age of six (6) months.

SECTION 4. LICENSING PERIOD; DUE DATE; INCREASED TAX, WHEN.

(a) The annual registration, tax and licensing period provided for hereunder shall commence on May first of each year and shall end on April 30th of the following year.

(b) The Owner or Harboring of each and every animal within the City which is subject to registration, licensing and payment of tax under the provisions of Section 3 above shall register and license such animal and pay such tax at the following times:

- (i) Between May 1st and 15th of each year in the case of all animals located within the City on the May 1st date of registering.
- (ii) Within ten (10) days after an animal becomes subject to registration, licensing and tax in all cases where:
 1. The animal attains the age of six (6) months after the May 1st commencement date of the licensing period, or,
 2. A Visiting Animal becomes subject to tax and licensing, or,
 3. An animal is brought into the City after the May 1st commencement date of the licensing period.

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- (iii) Within thirty (30) days after the effective date of this ordinance, if the animal has not been previously registered, licensed and taxed and is otherwise subject to registration, licensing and payment of tax under the provisions of Section 3 above.

(c) In the event the tax imposed and required to be paid by Section 3 above is not paid within the time required under subsection (b) of this Section, such tax shall be and the same is hereby increased Fifty Cents (\$.50) per month for each calendar month or part thereof that such tax remains unpaid.

(d) The full amount of the tax imposed under this Ordinance shall be due and payable notwithstanding the fact the animal for which the tax is owed may not have been within the City or subject to registration and tax for the full twelve (12) month licensing period involved and there shall be no proration of any tax imposed hereunder.

SECTION 5. PROCEDURE FOR REGISTRATION, LICENSING AND PAYMENT OF TAX. (a) At the time provided in Section 4 above the Owner or Harboring of each and every animal within the City required to be registered and licensed under the provisions of this Ordinance shall make application to the Enforcing Officer for such registration and licensing. Such application shall be made on a form provided by the City and the application shall contain the name and address of the Owner or Harboring, the name, breed, color, sex, age, height and weight of the animal being licensed and registered, and such other information as the Enforcing Officer may require.

(b) Concurrent with the filing of the application provided for in subsection (a) above, the Owner or Harboring making such application shall deliver to the Enforcing Officer a Certificate of Vaccination for the animal described in the application and shall pay to the Enforcing Officer the annual animal tax for such animal as provided for in this Ordinance. In no event shall the application be approved and a license issued unless a Certificate of Vaccination shall have been issued for the animal sought to be licensed in the application and the tax paid on such animal.

(c) Upon receipt of the foregoing application, Certificate of Vaccination, and tax, the Enforcing Officer shall issue to the Owner or Harboring applying for the license a certificate of license and a metallic tag for the animal so licensed. Such metallic tag shall have stamped thereon the year of issue, the words "Wathena Animal Tax" and a number corresponding to the number on the application provided for in subparagraph (a) above and the same shall be affixed at all times to the license animal and carried by such animal in the manner provided in Section 6 below.

SECTION 6. ANIMAL COLLAR; DISPLAY OF TAG; DUPLICATE. (a) The Owner or Harboring of every animal registered and licensed pursuant to this Ordinance shall provide such licensed animal with a neck collar to which the metallic animal tag issued for such animal pursuant to Section 5 (c) above shall be securely affixed and such Owner or Harboring

shall be responsible for insuring that such tag is carried and displayed by and on the licensed animal at all times and places.

(b) In the event that the metallic tag described in this Section shall be lost, then the Owner or Harboring of the animal for whom such tag was issued shall immediately make application to the Enforcing Officer for a duplicate tag and, on presentation of a certificate of license showing that the said animal currently registered and licensed as herein required and payment of the sum of \$1.00, the Enforcing Officer shall issue a duplicate metallic tag for such animal.

SECTION 7. IMPOUNDMENT OF ANIMALS. The Enforcing Officer shall capture and impound all "Unlicensed Animals" and all dogs found "Running at Large" within the City limits. All animals shall be placed in the City pound or other place of confinement provided by the City and such impounded animals shall be disposed of as provided in Section 8 below.

SECTION 8. DISPOSITION OF IMPOUNDED ANIMALS; PROCEDURE FOR. (a) Immediately upon capture and impoundment of any animal pursuant to Section 7 hereof, the Enforcing Officer shall serve the notice of such impoundment described in subsection (c) below upon the Owner or Harboring of such animal if the identify of such Person is known to the Enforcing Officer and if such Person resides within the City. Such notice shall be served personally or by residence service.

(b) In the event that the Enforcing Officer cannot serve notice of impoundment in the manner provided in subsection (a) above, then the Enforcing Officer shall post notice of such impoundment as described in subsection (c) below in a conspicuous place in the Wathena City Hall.

(c) The notice of impoundment required under subsections (a) and (b) above shall include the following information:

- (i) The name and address of the Owner or Harboring of the impounded animal, if known,
- (ii) The date that such animal was captured and impounded,
- (iii) The breed, sex, color and approximate height, weight and age of the animal,
- (iv) Any other identifying data for the animal,
- (v) Notice that the animal will be destroyed or otherwise disposed of after a specified date which shall be not less than three (3) full days after the date of service or posting of the notice, unless reclaimed or redeemed by the Owner or Harboring thereof or, in the case of an animal having no known Owner or Harboring, by any other person, and,
- (vi) Notice that all impoundment, licensing and other fees chargeable by reason of the impoundment must be paid precedent to redeeming the animal.

(d) In the event that the impounded animal shall not be reclaimed or redeemed by any Person within the time specified in the notice of impoundment, then the Enforcing Officer, upon the expiration of the time for redemption provided for in the notice of impoundment served or posted as provided in (a) or (b) above, shall proceed to destroy or make other suitable and proper arrangements for disposition of the impounded animal.

*ORD #541 Amendment
adds subsection e
attached*

SECTION 9. IMPOUNDMENT AND REDEMPTION COSTS. (a) As a condition precedent to the redemption of any impounded animal, the Owner, Harboring or other Person redeeming such impounded animal shall pay to the Enforcing Officer impoundment fees and other charges as follows:

- (i) An impoundment fee of \$5.00 for each Restricted Animal impounded.
- (ii) An impoundment fee of \$35.00 for each Running at Large animal and/or Unlicensed Animal, provided, however, that this impoundment fee shall be chargeable notwithstanding the fact, that it can be shown that such Unlicensed Animal was, in fact, licensed, but was not carrying the metallic tag evidencing such licensing at the time of capture.
- (iii) A boarding fee of \$5.00 for each day or part thereof that the impounded animal is held in confinement.
- (iv) For all Unlicensed Animals, (i.e. animals which do not, in fact, have a current license), the annual license tax imposed under Sections 3 and 4 above together with such other costs as may be incurred in the registration and licensing of the Unlicensed Animal.

(b) The impoundment and redemption costs and fees provided for in (a) above may be increased, decreased or otherwise changed or amended from time to time by resolution of the City.

(c) The impoundment and redemption costs provided for in (a) above shall be in addition to any fines which may be imposed pursuant to Section 17 below.

SECTION 10. ANIMAL BITES AND NOTICE THEREOF; QUARANTINE; FEES. (a) Whenever any animal has bitten a person, the person bitten shall immediately notify the Enforcing Officer of such fact and the Enforcing Officer shall thereupon immediately notify the County Health Officer thereof.

(b) Upon receipt of any notice pursuant to subsection (a) above, the Enforcing Officer may impound the biting animal in a veterinary hospital or other animal care facility for a period of not more than thirty (30) days within which time the County Health Officer shall determine whether or not such animal is suffering from a disease and, if not, the County Health Officer shall authorize the release of the impounded animal upon payment by the Owner or Harboring thereof of the actual cost of the boarding fees thereof, provided, however, that the County Health Officer may authorize the impoundment of any such animal on the Owner's premises if the owner produces a rabies Vaccination Certification showing that the biting animal

ORDINANCE NO. 541

AN ORDINANCE RELATING TO ANIMAL CONTROL WITHIN THE CITY OF WATHENA, KANSAS; AMENDING ORDINANCE NO. 537 OF THE CITY OF WATHENA; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES OF THE CITY OF WATHENA IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA, KANSAS:

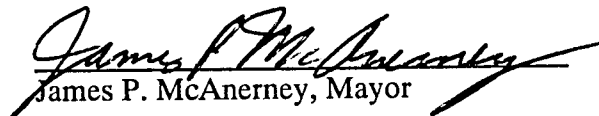
SECTION 1. ORDINANCE NO. 537 AMENDED. Section 8 of Ordinance No. 537 of the City of Wathena, Kansas, is hereby amended to include a new subsection (e) as follows:

“(e) Notwithstanding the terms of this Section 8 to the contrary, an animal 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 animal was a gift animal to an animal shelter, or euthanized by a duly incorporated humane society or by a licensed veterinarian if it appears to an officer of such humane society or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.”

SECTION 2. REPEALER. All Ordinances and parts of ordinances of the City of Wathena in conflict herewith are hereby repealed.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective from and after its passage and publication in the Official City paper.

PASSED by the Council and APPROVED by the Mayor on the 6th day of November, 2001.


James P. McAnerney, Mayor

ATTEST:

(CITY SEAL)


James Richardson, City Clerk

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has been vaccinated for rabies within twelve (12) months prior to date of impoundment (K.S.A. 47-125).

(c) In the event that the biting animal impounded pursuant to subsection (b) above shall be found to be free from disease and in the event that the Owner of Harbored thereof shall fail and refuse to pay the boarding fee incurred during the impoundment, then the Enforcing Officer shall proceed to make disposition of the biting animal in the manner provided in Section 8 hereof.

SECTION 11. IMPOUNDMENT FACILITY. The City may furnish and provide an impoundment facility within the City for the impoundment, care and disposition of all animals impounded pursuant to this Ordinance or the City may contract with any veterinary hospital or animal care facility, shelter or pound, within or without the State of Kansas, either public or private, for the impoundment, care and disposition of animals impounded pursuant to this Ordinance as the City shall, by resolution and contract, from time to time determine and provide.

SECTION 12. PERMITTING A DOG TO RUN AT LARGE. (a) No Owner or Harbored shall permit any dog to Run at Large within the City.

(b) Permitting a dog to Run at Large in violation of (a) above is a misdemeanor.

SECTION 13. PERMITTING A RESTRICTED ANIMAL TO RUN AT LARGE. No Owner or Harbored shall permit any Restricted Animal to Run at Large Within the City.

SECTION 14. OWNING OR HARBORING A NUISANCE ANIMAL. No Person shall own or harbor a Nuisance Animal.

(b) Owning or harboring a Nuisance Animal in violation of (a) above is a misdemeanor.

SECTION 15. REMITTANCE OF TAXES, FEES AND OTHER COSTS. The Enforcing Officer shall fully account and remit to the City Clerk of the City of Wathena for all taxes, fees and other costs collected by the Enforcing Officer pursuant to the requirements of this Ordinance.

SECTION 16. KENNEL LICENSES. (a) Notwithstanding the terms of this ordinance to the contrary, no person or household shall own or harbor more than three (3) animals of six months of age or older or more than one litter of pups or kittens, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding of animals without having obtained a kennel license from the city clerk.

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(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the City Superintendent certifying approval of the kennel and compliance with the applicable laws of the city and State of Kansas, and a certificate by the City Clerk has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the City Superintendent finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(c) The City Superintendent or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

- (1) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the City.
- (2) The kennel is maintained so as to be a public nuisance.
- (3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$25.00. Payment of such license fee is in addition to, and not in lieu of, the animal license fees otherwise required under this chapter.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.

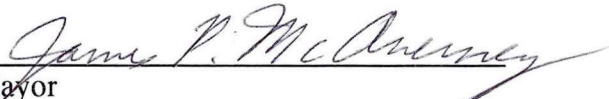
SECTION 17. PENALTIES FOR MISDEMEANOR CONVICTIONS. (a) Every person convicted of a violation of Sections 2, 12, 13, 14 or 16 of this Ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

(b) In addition to (a) above, any person convicted a second time of permitting a Vicious Animal to run at large in violation of Section 13 of this Ordinance shall, if ordered by the Court, be subject to the further penalty of having such Vicious Animal ordered destroyed.

SECTION 18. REPEALER. Ordinance Nos. 429, 433 and 469 of the City of Wathena and all other Ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 19. EFFECTIVE DATE. This Ordinance shall be effective from and after its passage and publication in the Official City paper.

PASSED by the Council and APPROVED by the Mayor on the 17th day of July, 2001.



Mayor

ATTEST:

(CITY SEAL)



City Clerk