West Plains Police Department

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TO: CITY ADMINISTRATOR SAM ANSELM, CITY CLERK KELLIE MAYERS, CITY COUNCIL

FROM: OFFICER BRAD JONES

SUBJECT: Amending and/or Repealing City Ordinances

<u>Executive Summary</u>

Main Amendments of Sections:
6-45: Impoundment; Redemption

Main Repealing of Sections:
6-48: Acceptance of Dogs Turned in at Pound

Discussion and Key Benefits for Amendments

1. **6-45: Impoundment; Redemption**
   - Allows owner/possessor to claim dog without having a current rabies vaccination but requires vaccination within a prescribed period of time. Allowing this will help with the availability of open kennels at the pound.

Discussion and Key Benefits for Repeal

1. **6-48: Acceptance of Dogs Turned in at Pound**
   - Will help with overcrowding and allow for more kennel availability for bite complaints and dogs running at large in the city.
   - Should save the City costs incurred with a relinquishment.

Fiscal Impact for Ordinance Repeal:

Under the current ordinance, a person may relinquish their dog for a fee of $25.00 and proof of vaccinations. However, there is no way of knowing how long the dog will be housed until adoption. Therefore, the cost of feeding, vet care, and maintenance of kennel can far exceed the $25.00 fee. The

current daily fee to hold a dog is $15.00 per day, therefore, taking in an owner relinquish and housing for more than two days will cost the City more than what the original fee will cover.

BILL NO. 4824 ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST PLAINS, AMENDING SEVERAL PROVISIONS OF ARTICLES I, II AND III OF CHAPTER 6 OF THE CITY OF WEST PLAINS MUNICIPAL CODE RELATING TO THE KEEPING AND CONTROL OF ANIMALS, FOWL AND LIVESTOCK.

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

SECTION 1. The following sections of Articles I, II and III of Chapter 6 of the Municipal Code are hereby amended to read as follows:

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.

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

The chief of police 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, adoption, or humane neutralization 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 chapter 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 transportation 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.)
(8) In the absence of the animal control officer, another duly designated city officer or employee will fulfill the duties.

Sec. 6-3. Animal neglect and abandonment.

(a) A person is guilty of animal neglect, which is prohibited, when they have 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 they have knowingly abandoned an animal in any place without making provision for its adequate care.

Sec. 6-4. Running at-large

No animal, including but not limited to, 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.

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 chapter, 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.

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.

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.

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

(a) No person shall keep, cause or allow or permit to be kept, on any premises occupied by them or under their 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.

(b) No person shall keep a dog pen on any property owned or controlled by them, 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.

(c) For purposes of this section, the term "pen" shall not include completely or substantially enclosed rear or front yards.

Sec. 6-9. Killing birds.

Notwithstanding any other provision of this Code, 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.

Sec. 6-10. Fights.

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

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.

Sec. 6-12. Animal abuse.

(a) A person commits the offense of animal abuse if they:

(1) Places poison so as to:

a. Constitute a hazard to humans or animals;
b. Cause prostration, convulsion, pain or suffering as a prelude to death;
c. Cause death;
d. Be proven that the substance is toxic or lethal in the amount present to any human or animal by competent medical or veterinary authority.

(2) Having ownership or custody of an animal, knowingly fails to provide adequate care which results in substantial harm to the animal.

(b) Any person violating or failing to comply with any section of this article shall be deemed guilty of an ordinance violation and upon conviction shall be subject to the general penalty as set forth in this Code.

Secs. 6-13 – 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.

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.

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.

Sec. 6-44. Running at-large.

It shall be unlawful for any person to permit a dog possessed, kept or harbored by them 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.

Sec. 6-45. Impoundment; redemption.

(a) A dog that is picked up in violation of section 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 taken into custody by the animal control officer within the city, which dog has not been vaccinated for rabies at the time of impoundment, may have the dog released without prior vaccination; however, the owner shall be required to have the dog vaccinated within a prescribed period following release or be subject to the issuance of a summons. If the dog is subsequently found running at-large again and has not been vaccinated as required, the owner may be subject to prosecution for failure to comply with rabies vaccination requirements.

(c) Employees of the department of animal control and the city 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.

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, if no one has claimed the dog, the dog will be offered up for adoption at a fee as provided in the city fee or put to death in as humane manner as allowed.

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 may issue a written warning to the owner and on the second occasion may file charges against the owner or possessor 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.

Sec. 6-48. Dangerous dogs to be chained.

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.

(a) The term "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. The term "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 their 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.

Sec. 6-49. Confinement after having bitten a person.

If a person is bitten by a dog, upon complaint to the animal control officer or any police officer, such dog shall be immediately placed in the city pound or confined in some animal clinic for a period of ten days for observation. If the owner of such dog wishes it to be held in an animal clinic, they shall make a request to the officer taking charge of such dog, and the officer may deliver the dog to an animal clinic 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~~ clinic. If such dog is placed in an animal clinic and found to be in normal health after ten days, the owner may redeem such dog by paying all fees to the animal clinic 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 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 place the dog for adoption or neutralize humanely under this article. No person shall refuse to deliver up to the animal control facility their dog or animal when requested to do so under the provisions of this chapter. No dog shall be taken into custody or quarantined by the animal control officer when the person bitten is the owner, possessor, or a member of the same household in which the dog is kept.

Sec. 6-50. 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 animal control facility 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 a duly-licensed animal shelter or a duly-licensed animal veterinarian clinic or animal hospital.

Secs. 6-51 – 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.

Sec. 6-79. Keeping goats.

No person shall keep any goat within 50 feet of the dwelling house or place of business belonging to another person or entity, 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.

Sec. 6-80. Keeping sheep.

No person shall keep any sheep within 50 feet of the dwelling house or place of business belonging to another person or entity, 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.

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 belonging to another person or entity.

(b) Pot-bellied pigs are permitted to be in the city in accordance with the provisions set forth herein:

(1) No more than one pot-bellied pig may be kept on any one 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 a 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 such pot-bellied pig up to date on shots and properly vaccinated by a licensed veterinarian and be able to provide proof of such upon request.

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. No part of this section of code shall apply to property zoned A1-Agriculture.

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.

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.

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.

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.

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.

SECTION 2. This Ordinance shall be in full force and effect from and after the date of its passage by the City Council.

PASSED AND APPROVED THIS ____ DAY OF _____, 20____
CITY OF WEST PLAINS, MISSOURI

BY: _____
MAYOR MICHAEL TOPLIFF

(SEAL)

ATTEST: _____
CITY CLERK KELLIE MAYERS