

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, TITLE VIII, CHAPTER 8-2 TO REQUIRE A BREEDER’S PERMIT, TO CLARIFY THE OFFENSE OF INHUMANE TREATMENT, TO ADD AN OFFENSE FOR INTACT DOGS AND INTACT CATS AT LARGE, AND TO REQUIRE SPAYING AND NEUTERING OF DOGS AND CATS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, Title VIII, Chapter 8-2 of the Amarillo Municipal Code provides for and prescribes local requirements for custody and control of animals found within the City Limits;

WHEREAS, the City Council of the City of Amarillo finds that procedures are necessary for the management, welfare, and disposition of animals found within the City Limits upon a violation of the prescribed requirements;

WHEREAS, the Animal Management & Welfare Advisory Board has considered these amendments and has recommended them to the Amarillo City Council by a vote of ___ to ___;

WHEREAS, the Amarillo City Council has considered the record before the Animal Management & Welfare Advisory Board and now finds that such recommendation promotes public health, safety, welfare, and protection of property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS:

SECTION 1. The following definitions are added in alphabetical order to Title VIII, Chapter 8-2, Article I, Section 8-2-1:

Sec. 8-2-1. - Definitions.

* * *

Abandonment: means (a) leaving an animal unattended for more than 24 hours without making reasonable arrangements for assumption of care or custody of the animal by another person; (b) releasing an animal upon a public highway or public or private land; or (c) failure to provide proper or adequate food, water, shelter or medical care to an animal.

* * *

Breed: means the mating and reproduction of offspring by animals.

Breeder: means any person who allows dogs or cats to breed.

* * *

Intact: means an animal that has not been spayed or neutered.

SECTION 2. Title VIII, Chapter 8-2, Article I, Section 8-2-2 is amended to read as follows:

Sec. 8-2-2. - Enforcement

- (a) A City of Amarillo Animal Management & Welfare Officer is authorized to enforce all ordinances and state laws pertaining to the ownership, care, and management of Animals by exercising lawful authority to issue citations or notices of violation, seizing Animals, and obtaining warrants or court orders pertaining to Animals. Such authority is also extended to any Texas peace officer acting to enforce this chapter or state laws pertaining to Animals.
- (b) It shall be unlawful for any person to interfere with, obstruct, physically resist, or oppose any Animal Management & Welfare officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other official duties. It shall be unlawful to take or attempt to take any animal from any Animal Management & Welfare Officer or from any vehicle used by the Animal Management & Welfare Officer to transport the animal, or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.
- (c) In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter.
- (d) The above section shall not apply to designated Amarillo Animal Management & Welfare facility staff or volunteers acting in the course and scope of duty.

SECTION 3. Title VIII, Chapter 8-2, Article I, Section 8-2-4(c) is amended to read as follows:

Sec. 8-2-4. – Fees.

- (c) *Other fees:*
 - (1) Rabies or erysipelas vaccination fee, pursuant to section 8-2-8 (veterinarian receipt) \$15.00
 - (2) Registration of Dangerous Animal \$100.00
 - (3) Bite Animal, impoundment and observation, 10 days \$100.00
 - (4) Dead Animal pickups, veterinary clinics:
 - a. Per bagged animal that is less than 200 pounds \$2.50
 - b. Animals weighing more than 200 pounds will not be picked up by Animal Management & Welfare
 - (5) Pathological examination \$50.00
 - ~~(6) Euthanasia:~~
 - ~~a. Cats10.00~~
 - ~~b. Dogs10.00~~
 - ~~11-25 lbs..... 15.00~~
 - ~~26-50 lbs..... 20.00~~

~~51 lbs and up25.00~~

~~(7)~~ (6) Small Animal trap, deposit (refundable upon timely return) \$90.00

~~(8)~~ (7) Vaccination at intake, Animal medical treatment:

a. Vaccination (therapeutic or prophylactic), immunization fee (or actual cost whichever is more) \$5.00

b. The owners of animals at the shelter requiring veterinarian services shall be charged the cost of the veterinarian fees.

(8) Pre-birth Breeder's Permit \$500.00

(9) Post-birth Litter Breeder's Permit \$1,000.00

(10) Surrender Fee \$20.00

(11) Mandatory Spay/Neuter Opt-Out Fee \$500.00

SECTION 4. Title VIII, Chapter 8-2, Article I, Section 8-2-6(a) is amended to add subsection (a)(5) as follows:

Sec. 8-2-6. - Inhumane treatment; unlawful restraint; statutes; presumptions; definitions, enforcement.

(a) *Inhumane treatment.*

(5) Abandonment.

a. It shall be unlawful for a person to (a) leave an animal unattended for more than 24 hours without making reasonable arrangements for assumption of care or custody of the animal by another person, (b) release an animal upon a street or public highway or public or private land, of (c) fail to provide proper or adequate food, water, shelter, or medical care to an animal.

b. It is not a defense to the crime defined in subsection (a)(5) of this section that the person abandoned the animal at or near an animal shelter, veterinary clinic, or other place of shelter if the person did not make reasonable arrangements for assumption of care or custody of the animal by another person.

c. The release of a community cat as defined by this Chapter into an area where food, shelter and monitoring are provided does not constitute abandonment within the meaning of this ordinance.

SECTION 5. Title VIII, Chapter 8-2, Article I, is amended to add section 8-2-16 as follows:

Sec. 8-2-16. -Intact dogs and cats at-large.

(a) It shall be unlawful for an Owner to fail to restrain any intact dog or intact cat.

(b) A violation of this section shall be separate and distinct from the charge of animal at-large.

(c) It shall be presumed that a female dog or cat found at large is intact. This presumption may be rebutted by evidence that the animal has been spayed or neutered.

SECTION 6. Title VIII, Chapter 8-2, Article III, Section 8-2-53 is amended to read as follows:

Sec. 8-2-53. - Notice of impoundment of tagged Animals.

- (a) Upon impounding an Animal found at large with current vaccination or other identifying tags, the Animal Management & Welfare Department shall make a reasonable effort to notify the Owner of such Animal, and of the conditions whereby the Owner may regain custody of such Animals.
- (b) It shall be unlawful to fail to reclaim an Animal from the shelter within one (1) business day of notification that the Animal has been impounded.

SECTION 7. Title VIII, Chapter 8-2, Article III, Section 8-2-56 is amended to read as follows:

Sec. 8-2-56. - Prohibited transactions.

- (a) It shall be unlawful for any person to sell, trade, lease, rent, giveaway or otherwise market:
 - (1) an intact puppy or kitten without obtaining a Breeder's Permit. ~~a live Animal, fowl, reptile, or fish to the general public without utilizing a Fixed Business Location, unless the person obtains a Transient Retail Business license in accordance with the requirements of Chapter 14-6, Article II, of this Code of Ordinances, as amended.~~
 - (2) a live animal on a roadside, on public right-of-way, in a commercial parking lot, or at an outdoor special sale, swap meet, garage sale, flea market, parking lot sale, or similar event.
- (b) This section does not apply to:
 - (1) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or
 - (2) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary, shelter, or adoption for abandoned or unwanted animals.
 - (3) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
 - (4) A publicly or privately maintained circus, petting zoo, nativity scene, traveling show or rodeo that does not remain in the City longer than fifteen (15) consecutive days.
- (c) All advertising, posting, and other marketing for an intact puppy or kitten must include the unique Breeder's Permit number.

SECTION 8. Title VIII, Chapter 8-2, Article III, Section 8-2-58 is repealed in its entirety and replaced as follows:

Sec. 8-2-58. - Spay/Neuter Fund established.

The city shall create a special revenue fund labeled "Spay/Neuter Fund" to account for the collection and spending of Breeder's Permits, Surrender Fees, and Mandatory Spay/Neuter Opt-Out Fees. The funds may be utilized exclusively for the purposes of spaying and neutering animals, and expenditures will require city council approval through the normal budgeting process.

SECTION 9. Title VIII, Chapter 8-2, Article III, is amended to add section 8-2-59 as follows:

Sec. 8-2-59. - Mandatory Spay/Neuter.

Any animal that is impounded two or more times over a three (3) year period shall be required to be spayed or neutered at the Owner's expense before being reclaimed by the Owner. Alternatively, the Owner may pay the Mandatory Spay/Neuter Opt-Out Fee set forth in this chapter. If the owner elects to pay the Mandatory Spay/Neuter Opt-Out Fee, the fee shall be charged for each subsequent instance that the animal is impounded. An Owner that declines to have his or her animal spayed or neutered and declines to pay the Mandatory Spay/Neuter Opt-Out Fee under this section shall immediately forfeit ownership rights of the animal.

Secs. 8-2-5960—8-2-70. - Reserved.

SECTION 10: Title VIII, Chapter 8-2, Article V is amended to clarify that sections 8-2-84 through 8-2-87 are now reserved.

SECTION 11. Title VIII, Chapter 8-2 is amended to add Article VI as follows:

ARTICLE VI. – BREEDERS

Sec. 8-2-88 - Application for breeder's permit per intact bitch or queen.

(a) A person who breeds shall apply to the director of Animal Management & Welfare or his designee for a Breeder's Permit. An application for a breeder's permit shall include:

- (1) The name, address, and telephone number of the applicant;
- (2) The name, address, and telephone number of the location where the breeding will be conducted;
- (3) A description of the type and breed of animal to be bred;
- (4) The name of the primary veterinarian who will handle issues with the animal to be bred;
- (5) Proof of current rabies vaccinations for adult animals; and

- (6) Any other information deemed necessary by the director.
- (b) The director shall issue the Breeder's Permit with a unique identifying number if the applicant meets the qualifications to obtain the permit. The director shall deny an application for a Breeder's Permit if the applicant fails to:
 - (1) Complete the application for a Breeders Permit;
 - (2) Properly restrain the dogs and cats in his or her care and custody;
 - (3) Adequately care for and protect the animals in his or her care and custody;
 - (4) Meet all requirements for a Breeder's Permit; or
 - (5) Pay all required fees pertaining to the Breeder's Permit.
- (c) A Breeder's Permit will expire when the resulting offspring are sixteen weeks of age.
- (d) All advertising for the litter must clearly display the unique permit number issued by the director.
- (e) Each litter shall require a new Breeder's Permit.
- (f) Breeder's Permit fees are non-refundable and non-transferable.
- (g) The fee structure for a Breeder's Permit shall be reviewed at an interval not to exceed five (5) years.
- (h) Each day is a new violation.
- (i) All owner contact information (address, phone numbers) listed on mentioned Breeder's Permit must be kept current with the Animal Management & Welfare Department.

Sec. 8-2-89. - Grounds for revocation.

The director may revoke a Breeder's Permit if the permit holder fails to comply with the provisions set forth in section 8-2-88(b).

SECTION 12. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 13. Repealer. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 14 . Continuation. That nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance, and such prior law is continued in effect for purposes of such pending matter.

SECTION 15. Penalty. A violation of this ordinance is an offense punishable upon conviction in accordance with Section 1-1-5 of the Amarillo Municipal Code of Ordinances.

SECTION 16. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the _____ day of _____, 2018; and PASSED on Second and Final Reading the _____ day of _____, 2018.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM

Bryan McWilliams, Interim City Attorney

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