

ORDINANCE NO. 2010-_____

AN ORDINANCE ADOPTING A NEW ARTICLE X. "PERMIT FOR INTACT ANIMAL" IN CHAPTER 5 "ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF WACO, MCLENNAN COUNTY, TEXAS TO REQUIRE THAT OWNERS OF INTACT ANIMALS OBTAIN AN INTACT ANIMAL PERMIT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING A PENALTY CLAUSE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF WACO, McLENNAN COUNTY, TEXAS:

Section 1. That Article X. "Permit for Intact Animal" in Chapter 5 "Animals" of the Code of Ordinances of the City of Waco, McLennan County Texas, is hereby adopted to read as follows:

ARTICLE X. PERMIT FOR INTACT ANIMAL

Sec. 5-207. Definitions.

The following definitions apply throughout this chapter:

Intact animal means a dog or cat that is able to reproduce.

Litter means the young borne at one time by a dog or cat.

Retail pet store means a business that regularly sells animals for pet purposes to an ultimate owner. The term includes any owner, operator, agent, or employee of the business.

Permittee means a person issued an intact animal permit under section 5-208 of this chapter.

Sec. 5-208. Intact Animal Permit.

- (a) A person commits an offense if he is the owner of an intact animal and has not obtained an intact animal permit for that animal. A separate permit is required for each dog or cat that the person keeps unsterilized.

DRAFT (4-01-10)

- (b) An intact animal permit may only be issued for a dog or cat:
 - (1) that is currently in compliance with the vaccination requirements of Section 5-61 of this chapter; and
 - (2) that has some type of identifying license, tag, tattoo, or microchip by which the owner of the dog or cat can be identified.
 - (3) whose owner has not surrendered a litter of dogs or cats to the animal shelter within 2 years of the date of the application for the permit.

- (c) To obtain an intact animal permit, a person must submit an application to the authority (on a form provided by the animal control office for that purpose) and pay an annual intact animal permit fee. The intact animal permit application must include:
 - (1) the name, address, and telephone number of the applicant;
 - (2) the location where the dog or cat is harbored;
 - (3) a description of the dog or cat;
 - (4) proof that the animal is qualified for an intact animal permit under Subsection (b) of this section; and
 - (5) any other information determined necessary by the authority for the enforcement and administration of this section.

- (d) An intact animal permit expires one year after the date of issuance and may be renewed by applying in accordance with Subsection (c) of this section. If the authority does not receive an application for a permit renewal within 45 days after the expiration of the permit, a late fee will be added to the permit fee.

- (e) The city council by resolution or as part of the annual budget shall approve a schedule of fees for the issuance of a permit and for the late fee referenced in Subsection (d) above.

- (f) An intact animal permit is not transferable.

- (g) It is a defense to prosecution under subsection (a) that:
 - (1) the animal is being held for sale by a retail pet store or for adoption by the city or its agent or an animal welfare group ;
 - (2) the animal is under six months of age;

DRAFT (4-01-10)

- (3) a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile; or
 - (4) the animal is a trained animal used by or under the authority of a governmental agency in police or rescue work.
- (h) A permittee commits an offense if he/she allows a permitted female dog or cat to have more than one litter during the permit term.
- (i) It is a defense to prosecution under Subsection (h) that the permittee:
 - (1) received written authorization from the authority under Subsection (j) of this section to allow the female dog or cat to have two litters during the permit term; and
 - (2) did not allow the female dog or cat to have more than the number of litters authorized by the authority for the permit term.
- (j) Upon request of a permittee, the authority may, in writing, authorize the permittee to allow a permitted female dog or cat to have two litters during the permit term if the permittee establishes through veterinary records that previously in the permit term, the female dog's or cat's litter was euthanized for health reasons or otherwise did not survive for health reasons.
- (k) A permittee commits an offense if the permittee:
 - (1) fails to prominently display the intact animal permit number on any advertisement by the permittee for the sale, adoption, or other transfer of any dog or cat, regardless of compensation; or
 - (2) sells, adopts, or otherwise transfers any dog or cat, regardless of compensation and fails to provide to the authority (on a form provided by the animal control office for that purpose) the name, address, and telephone number of the dog's or cat's new owner within five business days after the date of the sale, adoption, or other transfer of the animal.
- (l) The authority shall deny or revoke an intact animal permit if the authority determines:
 - (1) that the applicant or permittee failed to comply with any provision of this chapter;

DRAFT (4-01-10)

- (2) that the applicant or permittee intentionally made a false statement as to a material matter on the intact animal permit application; or
 - (3) that any previous intact animal permit issued to the applicant or the permittee has been revoked.
- (m) If the authority denies or revokes an intact animal permit, the authority shall notify the applicant or permittee in writing of the action and a statement of the right to an appeal. The applicant or permittee may appeal the decision of the authority to the animal grievance board. To appeal the decision of the authority, the applicant or permittee must file a notice of appeal with the city secretary within five days of receiving the notice of the decision. The filing of an appeal stays an action of the authority in revoking the permit until the animal grievance board makes a final decision.

Section 2. That all ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 3. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionally, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a misdemeanor and the penalty for violating this ordinance shall be as provided for in Section 1-14 of the Code of Ordinances of the City of Waco.

Section 6. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

DRAFT (4-01-10)

PASSED AND APPROVED:

FIRST READING: ____ day of _____, 2010.

SECOND READING: ____ day of _____, 2010.

Virginia DuPuy, Mayor
City of Waco, Texas

ATTEST:

Patricia W. Ervin, City Secretary

APPROVED AS TO FORM & LEGALITY:

Leah Hayes, City Attorney