

## ORDINANCE NO. 16-35

AN ORDINANCE PERTAINING TO TRAP-NEUTER-RETURN PROGRAM, AMENDING SECTIONS 5-1-101, 103, ARTICLE 5-1, CHAPTER 5, LAWTON CITY CODE, 2015, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

***NOW, THEREFORE, BE IT ORDAINED*** by the Council of the City of Lawton, Oklahoma, that:

Section 1. Section 5-1-101 is hereby amended to read as follows:

5-1-101 - Definitions.

A. As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Abandon" means to:

- a. Cease providing for the daily care, welfare or maintenance of an animal without the transfer of ownership of such animal;
- b. Fail to retrieve, claim, or relinquish ownership to the city, an animal impounded at the Animal Welfare Kennel for any violation of Lawton City Code after notice is given to the owner of such animal, if known; or
- c. Allowing an animal to reside at a property or dwelling not used as a primary dwelling, or without water or electric service, or other utilities in service.

"Altered" means any cat or dog over the age of six months which has been neutered or spayed;

3. "Animal" means any warm blooded animal (excluding fowl when regarding Section 5-2 of this code).
4. "Animal rescue group" means any organization qualified as a non-profit organization under Title 26, United States Code, Section 501(C)(3), along with their affiliated foster homes, operating for the sole purpose of rescuing stray dogs and cats;
5. "Animal shelter" means the premises owned and operated by the city for the purposes of impounding, sheltering or caring for animals;
6. "Animal welfare officer" means the person or persons employed by the city as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter;
7. "At large" or "running at large" means any animal which is not confined on the property of its owner or keeper, the leased premises of the animal's owner or keeper or under the actual physical control of a competent person (this excludes cats under the TNR program);

8. "Breeding/Advertising/Transfer permit" or "(B.A.T.)," would authorize the holder to breed, sell, trade, advertise, receive for any compensation, give away or transfer ownership of no more than one litter per licensed animal, per household, per year.
9. "Cat" means any *Felis catus*, excluding large cats (lions, tigers, etc.) and hybrids.
10. "City License" means any one of two licenses, A or B, issued by the animal welfare division for registration of animals.
  - a. License A: the dog or cat registered under this license has been spayed or neutered.
  - b. License B: the dog or cat registered under this license is intact and has not been spayed or neutered.
11. "Commercial Advertising/Transfer permit" means a permit authorizing pet shops to sell, trade, advertise, receive for any compensation, give away or transfer ownership of no more than fifty (50) dogs or cats per permit per year.
12. "Confinement" means to secure an animal in a house or by a fence within the boundaries of the owner's, leaseholder's or keeper's property (I. e. house, fenced yard);
13. "Cruelty" means to endanger the life, health, or safety of an animal;
14. "Currently vaccinated" means properly immunized by or under the supervision of a licensed veterinarian with an antirabies vaccine licensed and approved by the United State Department of Agriculture for use in that animal species, or meeting conditions specified in Oklahoma State Department of Health Zoo Notice Disease Control Rules, OAC Title 310, Chapter 599 Section 310:599-3-8. Vaccine must have been given at appropriate time interval(s) for the age of the animal and type of vaccine administered.
15. "Dog" means any *Canis familiaris*, excluding hybrids.
16. "Domestic birds" means canaries, parrots, parakeets, mean birds, peacocks, birds of paradise or other birds tamed to the household or pertaining thereto;
17. "Eartip" means a mark identifying a feral cat as being in a TNR program, specifically, the removal of approximately 3/8 of an inch off the tip of the cat's left ear in a straight line, while the cat is anesthetized.
- ~~17~~18. "Exposed to rabies" means any animal that has been bitten by or exposed to any other animal known to have been infected with rabies;
19. "Feral Cat" means a cat that is unsocialized to people and typically avoids contact with humans.
20. "Feral cat caregiver" means any person , who in accordance with registering as such with a TNR program, provides volunteer care to a feral cat.
21. "Feral cat colony" means a group of feral cats who congregate, more or less, together as a unit and share a common food source.
- ~~18~~22. "Fowl" means chickens, guineas, geese, ducks and pigeons;
- ~~19~~23. "Health Certificate" means a document provided by a licensed veterinarian attesting to the health of the specific dog or cat and will include a description of the animal, its age, sex, breed, and if the animal is of sufficient age, a record of any

vaccinations for canine distemper, adeno-virus parainfluenza parvovirus, coronavirus, and leptospirosis, and for cats, feline rhinotracheitis, and panleucopenia.

~~20~~24. "Health Department Designee" means an employee of the Oklahoma State Department of Health, or county health department, who is acting within their scope of rabies control authority designated through the Commissioner of Health.

~~24~~25. "Health Officer of the City" shall mean such specifically designated person as provided by Section 1-1-102 of the Lawton City Code.

~~22~~26. "Home quarantine" means confinement and observation of an animal allowed at the animal owner's property for a specified time period that has been approved by the Health Department Designee and will be monitored by the Health Department Designee.

~~23~~27. "Impoundment" means placing an animal in the animal control vehicle or unit or holding an animal in custody at the animal control shelter;

~~24~~28. "Keeper" means any person who is the owner of an animal, acts in the capacity of the owner of an animal at the owner's request, or who is responsible for the care, welfare and maintenance of an animal;

~~25~~29. "Kennel" means any place where any combination of eight (8) or more dogs or cats more than six (6) months of age are sheltered, fed and watered;

~~26~~30. "Large animals" means horses, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature;

~~27~~31. "Microchip implant" means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for the purposes of identification and/or recovery of the animal.

~~28~~32. "Neuter" means to render a male dog or cat unable to reproduce;

~~29~~33. "Nuisance" means the conduct or behavior of any small or large animal, cat or dog which molests passersby or passing vehicles; attacks other animals, damages private or public property; barks, whines, howls, crows or makes other noises in an excessive, continuous fashion which annoys the comfort, repose, health or safety of the people in the community; unconfined in season; or a vicious animal not confined as required by this chapter;

~~30~~34. "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal. The occupant of any premises on which a domesticated animal remains, or to which it customarily returns, for a period of ten (10) days or more shall also be deemed to be the owner. This does not include a person caring for a feral cat as a feral cat caregiver;

~~31~~35. "Permit" means the permit issued by the animal welfare division;

~~32~~36. "Pet shop" means an establishment, with a physical commercial location engaged in the business of buying or selling, at retail, dogs or cats or other animals for profit-making purposes;

- ~~33~~37. "Provoke" or "provocation" means, with respect to an attack by an animal, that the animal was hit, kicked, or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched, or squeezed by a person;
- ~~34~~38. "Rabies" means an acute disease of humans and warm-blooded mammals caused by the rabies virus (genus *Lyssavirus*) that affects the central nervous system and is almost always fatal.
- ~~35~~39. "Rabies Vaccination Certificate" means documentation from a licensed veterinarian that shows that a vaccine injection was administered to an animal on a particular date using a United States Department of Agriculture approved rabies vaccine at the proper time interval(s) for the age of the animal as prescribed by the manufacturer of the vaccine, and which states the time period that the vaccine is good for.
- ~~36~~40. "Ratproof" means that state of being constructed so as to effectively prevent entry of rats;
- ~~37~~41. "Restraint" means an animal is controlled by leash or tether either of which shall not exceed six (6) feet in length, by a competent person. Vehicle restraints used to secure an animal in the back of a truck or trailer shall be a device designed specifically for this purpose, which secures the animal in the center of the back of the truck or trailer bed preventing the animal from jumping or falling out;
- ~~38~~42. "Run" means an area used to confine an animal that is no less than one hundred (100) square feet and is at least five (5) feet in width; the area will be designed to be escape proof, must contain proper shelter, food and water, and a cover to provide protection from the weather. Multiple animals may be housed in this area as follows: three (3) small dogs under ten (10) pounds each, two (2) medium dogs under twenty-five (25) pounds each or one (1) dog over twenty-five (25) pounds. This definition does not apply to confinement of a dangerous dog.
- ~~39~~43. "Sanitary" means any condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding, and which preserves the health of the city;
- ~~40~~44. "Severe injury" means any physical injury that reasonably results in hospitalization or medical treatment.
- ~~41~~45. "Small animals" means rabbits, hares, chinchillas, turkeys, fowl, pigeons, (except homing pigeons) miniature pigs, as further defined herein, for household pets, or any other animal of similar size or stature; for the purpose of this definition, miniature pig has a maximum weight of one hundred twenty-five (125) pounds and a maximum height of twenty-two (22) inches as established by the American Miniature Pig Association (AMPA);
- ~~42~~46. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;
- ~~43~~47. "Special handler's license" authorizes the license holder to have four (4) or more but less than eight (8) dogs or cats or a combination thereof where such dogs or cats or combination thereof are sheltered, fed and watered in or on the premises, property or residence of the person who has such a license;

~~4448. "Vaccination" means an injection administered by a licensed veterinarian using a United States Department of Agriculture approved rabies vaccine administered at the proper time interval(s) for the age of the animal as prescribed by the manufacturer of the vaccine administered.~~

~~4549. "Transfer" means to convey or change the ownership of an animal from one (1) person to another with or without the exchange of money or other consideration;~~

50. "Trap-Neuter-Return/TNR" means a nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, eartipped, and then returned to the location where they were originally trapped.

~~4651. "Unaltered" means any cat or dog over the age of six (6) months which has not been neutered or spayed;~~

52. "Vaccination" means an injection administered by a licensed veterinarian using a United States Department of Agriculture approved rabies vaccine administered at the proper time interval(s) for the age of the animal as prescribed by the manufacturer of the vaccine administered.

B. All other words or phrases used herein shall be defined and interpreted according to their common usage.

(Ord. 2005-11, Amended, 04/22/2005; Ord. 2004-39, Amended, 11/11/2004; Ord. 2001-09, Amended, 02/27/2001; 97-33, Amended, 07/22/1997; 96-20, Amended, 04/23/1996)

(Ord. 2007-60, Amended, 11/06/2007; Ord. 2007-45, Amended, 08/23/2007; Ord. 2007-43, Amended, 07/10/2007; Ord. 2007-28, Amended, 04/10/2007; Ord. 2007-06, Amended, 03/15/2007)

(Ord. No. 11-37, § 1, 8-9-2011)

Section 2. Section 5-1-103 is hereby amended to read as follows:

5-1-103 - Injuring, poisoning or trapping animals prohibited.

- A. A person who accidentally or otherwise strikes an animal with an automobile and injures it shall notify the animal welfare division.
- B. No person shall expose or give to any animal any poisonous substance whether mixed with food or not. This provision shall not apply to eradication or population control by a professional, state licensed animal control official or game warden.
- C. No person shall set or expose an open jaw type trap, leg hold trap, snare trap, or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals as provided in Section 4-119 of Title 29 of the Oklahoma Statutes.

- D. Live traps available for use by the public through the Lawton Animal Welfare Division are authorized to assist in the capture of domestic and non-domestic animals constituting a nuisance. A deposit as stipulated in the fee schedule shall be required and will be reimbursed to those persons issued traps provided the trap is returned to the Animal Welfare Division in operable condition. Any animal trapped in a live trap shall be reported immediately to the Lawton Animal Welfare Division for removal. Any person leaving an animal in a trap which results in, or contributes to, distress, dehydration or the death of the animal may be cited for violation(s) as set forth in the Municipal Code.
- E. Trap-Neuter-Return/TNR shall be permitted, within the city limits of Lawton, by animal rescue groups registered with animal welfare to conduct a TNR program.
1. Such organization will oversee registered feral cat colonies and feral cat caregivers;
  2. An eartipped feral cat received by animal rescue groups or animal welfare will be returned to the location where it was trapped unless veterinary care is required;
  3. An eartipped cat trapped by animal welfare will be released on site unless veterinary care is required, at which point it will be surrendered to a local animal rescue group;
  4. Feral cat caregivers are empowered to reclaim impounded feral cats without proof of ownership;
  5. A feral cat caregiver who returns a feral cat in conjunction with TNR is not deemed to have abandoned the feral cat.

(97-33, Amended, 07/22/1997)

(Ord. 2007-06, Amended, 03/15/2007)

(Ord. No. 11-44, § 1, 9-13-2011)

**State Law reference**— Poisoning animals, 21 O.S. Sec. 1681.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

Section 4. Effective Date. The provisions of this ordinance shall become effective thirty days after the date of the ordinance's passage.

**ADOPTED and APPROVED** by the Council of the City of Lawton, Oklahoma this 13<sup>th</sup> day of December, 2016.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI L. HUSHBECK, CITY CLERK

**APPROVED** as to form and legality this \_\_\_\_\_ day of December, 2016.

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FRANK V. JENSEN, CITY ATTORNEY