

**CHAPTER 90. ANIMALS\***

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**Sec. 90.01. Definitions.**

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

- (A) *At large*. Off the premises of the owner and not under the control of the owner or

\***Editor's note**—Ord. No. 16-03, §§ 1—27, adopted Aug. 4, 2003, repealed and replaced the former animal regulations of the city in their entirety and enacted new provisions as herein set out. Former Ch. 90, §§ 90.01—90.24, pertained to animals and derived from Ord. No. 7-99, § I, 4-5-99; Ord. No. 18-01, §§ 1—19, adopted 4—5-99.

a member of his immediate family, either by leash, cord, chain, or under reasonable control of some competent person.

- (B) *Colony*. One or more feral cats, whether unmanaged or managed.
- (C) *Colony caretaker*. A person who provides food, water and/or shelter for feral cats in a managed colony. Colony caretakers shall not be deemed to own or harbor said cats.
- (D) *Cruelty*. The intentional and malicious infliction of physical suffering upon an animal.
- (E) *Designee*. An organization or individual recognized by the city animal shelter that uses the trap-neuter-return method for stabilizing and reducing the feral cat population.
- (F) *Dog*. Members of the canine species, both male and female.
- (G) *Feral cat*. A cat that has lived its life with little or no human contact, is not socialized or is ear-tipped or tattooed.
- (H) *Harboring*. Any person who shall suffer or permit any dog or other animal to frequent or remain on or within his house, building, premises, or enclosure shall be deemed to be harboring such dog or other animal, within the meaning of this chapter.
- (I) *Kennel*. The use of land or buildings for the purpose of selling, breeding, boarding or training animals other than farm animals; or the keeping of four or more dogs over six months or the keeping of six or more cats over four months old, or the keeping of more than eight dogs or cats.
- (J) *Managed colony*. A colony of feral cats that is registered with the animal care and services department or its designee and is maintained by a colony caretaker using the trap-neuter-return method to stabilize and reduce the feral cat population.

- (K) *Neglect*. The failure to provide an animal proper medical care, the failure to provide proper housing, or the failure to provide food and water.
- (L) *Non-immunized dog or cat*. Any dog or cat over three months of age which has not been vaccinated or immunized against rabies, or if a booster shot has not been administered for a period of 12 months from the date of a one-year vaccination or 36 months from the date of a three-year vaccination.
- (M) *Owner*: Any person keeping or harboring a dog or other animal.
- (N) *Pet shop*. Animal retail establishment engaging in the purchase and/or sale and/or adoption of all vertebrate and non-vertebrate animals, with the exception of those establishments which deal exclusively in the purchase and/or sale and/or adoption of aquatics.
- (O) *Public nuisance*. Any animal or animals that:
- (1) Molest passerby or passing vehicles;
  - (2) Attack other animals;
  - (3) Damage public property or private property;
  - (4) Bark, whine or howl in an excessive or continuous fashion;
  - (5) Defecate on public or private property, other than the property belonging to the owner, guardian, harbinger and/or colony caretaker, unless the waste is immediately removed and disposed of in a sanitary manner by the animal's owner, guardian, harbinger, and/or colony caretaker; or
  - (6) Otherwise interferes with the free use and comfortable enjoyment of life or property.
- (P) *Rabies vaccination*. The injection by a licensed veterinarian of a dog or cat with a rabies vaccine licensed by the U.S.D.A. and approved by the state board of health.
- (Q) *Rescue facility*. Any facility operated by a person or organization other than a municipality for the purpose of harboring and/or re-homing animals. This definition includes all non-profit animal shelters.
- (R) *Severe injury*. Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or requires hospitalization.
- (S) *Stray*. Any animal that does not appear, upon reasonable inquiry, to have an owner/guardian.
- (T) *Tether*. Attaching a domestic pet to a stationary object or pulley run by means of a chain, rope, tether, cable, or similar restraint. "Tether" does not include the use of a leash to walk a domestic pet.
- (U) *Trap-neuter-return*. A full management plan in which feral cats already living outdoors are humanely trapped, then evaluated, sterilized and ear-tipped or tattooed by veterinarians. Kittens under ten weeks old are adopted into good homes if they become socialized. Healthy adult cats too wild to be adopted are returned to their familiar habitat under the lifelong care of volunteers.
- (V) *Undomesticated animals*. Animals that usually live in the wild, such as, but not limited to bears, lions, snakes, cougars, or coyotes.
- (W) *Vicious dog*. A vicious, fierce, or dangerous dog means any dog which has:
- (1) Attacked a person without having been provoked by that person;
  - (2) Attacked, at some place other than its owner's property, another animal; or
  - (3) Chased or approached a person at some place other than its owner's property, in a menacing fashion or with an apparent attitude of attack.
- (Ord. No. 16-03, § 1, 8-4-03; Ord. No. 56-06, § 1, 12-4-06; Ord. No. 14-08, § 1, 7-7-08; Ord. No. 51-12, § 1, 1-7-13)

**Sec. 90.02. Establishment of the animal care and services department.**

There is hereby established the animal care and services department which shall be responsible for the impounding of dogs, cats or other animals found to be running at large and impounding fierce and dangerous dogs in the city. The animal care and services department shall encourage an adoption program from stray dogs and cats and a spay or neuter program aimed at reducing the stray dog and cat population of the city. The animal care and services department shall assume the responsibilities and/or obligations of the former city animal shelter.

(Ord. No. 51-12, § 2, 1-7-13)

**Editor's note**—Ord. No. 51-12, § 2, adopted January 7, 2013, amended § 90.02 to read as setout herein. Former § 90.02 pertained to establishment of the Muncie animal shelter and was derived from Ord. No. 16-03, § 2, adopted August 4, 2003.

**Sec. 90.03. Administration of the animal care and services department.**

The mayor of the city shall appoint a director of the animal care and services department who shall be responsible for the day to day conduct of the business of the animal care and services department. The director shall serve at the pleasure of the mayor of the city.

(Ord. No. 51-12, § 3, 1-7-13)

**Editor's note**—Ord. No. 51-12, § 3, adopted January 7, 2013, amended § 90.03 to read as setout herein. Former § 90.03 pertained to administration of the Muncie animal shelter and was derived from Ord. No. Ord. No. 16-03, § 3, adopted August 4, 2003.

**Sec. 90.03.01. Establishment of the board of animal care and services.**

There is hereby established a board of animal care and services, hereinafter referred to as the "board", which shall govern the management and operation of the animal care and services department pursuant to the interlocal agreement adopted and executed by the city, the mayor of the city, the city council, the Delaware County Commissioners and the Delaware County Council on March 19, 2012. The board shall consist of members as established by the interlocal agreement of March 19, 2012.

(Ord. No. 51-12, § 19, 1-7-13)

**Sec. 90.04. Identification and registration of dogs.**

*Tag and collar or microchip; exhibition; removal unlawful.* Every person who owns, keeps, harbors, or maintains a dog shall provide each such animal with a collar and identification tag or microchip to which the rabies vaccination tag shall be affixed and is responsible to see that the collar and tags are constantly worn. Dog tags are not transferable from one dog to another.

- (A) No person shall remove either the collar or the tag or the microchip from any dog or any similar animal except on consent or order of the owner or person to whom the proof of rabies vaccination has been issued. No person shall refuse upon request to exhibit his proof of rabies vaccination to any officer of the police department of the city, director of the animal shelter, employee of the animal care and services department, or to any other person having legal authority to inquire into the matter.
- (B) Any person violating this section shall be subject to a fine of no less than \$50.00.
- (C) The director of the animal care and services department will maintain a list of microchip registrations from animals that have been processed through the animal shelter.

(Ord. No. 51-12, § 4, 1-7-13)

**Editor's note**—Ord. No. 51-12, § 4, adopted January 7, 2013, amended § 90.04 to read as setout herein. Former § 90.04 pertained to control licensing and registration of dogs and was derived from Ord. No. 16-03, § 4, adopted August 4, 2003.

**Sec. 90.05. Poisoning dogs or cats.**

It shall be unlawful for any person with the intent to destroy or kill any dog or cat to feed the animal any poisoned food or to place poisoned food where it may be found and eaten or consumed by a dog or cat.

(Ord. No. 16-03, § 5, 8-4-03)

**Sec. 90.06. Running at large.**

No person owning or having charge, care, custody or control of any dog or cat shall cause, at

large and not under restraint, as provided herein, shall be taken by an agent of the animal care and services department, impounded at the animal care and services department, and confined there in a humane manner for a period of not less than five working days, unless sooner claimed by the owner, and may, in the event such animal is not claimed, thereafter be sold, adopted, or disposed of in a humane manner.

- (A) The director in charge of the animal care and services department shall, upon receiving any dog or cat, make a complete registry entering the breed, color, and sex of such dog or cat, and whether the dog is microchipped. If the dog is microchipped, the name and address of the owner and the number of the microchip shall be entered in the registry.
- (B) Any animal so impounded under the provisions of this chapter and not reclaimed by the owner or agent thereof within such five-day period may be placed in the custody of some suitable person who will pay the adoption fee and who will agree to comply with the provisions of this chapter and provide a good home for the animal. If no such suitable person is found for the animal, the animal may be humanely euthanized by a licensed veterinarian or his/her designee.
- (C) When, in the judgment of the director of the animal shelter, it is deemed that an animal should be humanely euthanized for humane, health, or safety reasons, it shall be his duty to see that the animal is humanely euthanized, and not permitted to be redeemed by any person. An appeal from the judgment of the director of the animal care and services department may be taken to the board of animal care and services within five days, during which time the animal shall not be humanely euthanized. It shall be the duty of the board to affirm or disaffirm the decision of the director of the animal care and services department as to whether or not the animal shall be humanely euthanized.
- (D) Immediately upon the impounding of a dog or other animal, the agent of the animal care and services department shall make every effort possible to notify the owner of such dog or other animal of the impoundment and of the conditions under which he may regain custody of his animal.
- (E) The owner of any animal impounded under the provisions of this chapter shall be entitled to resume possession of such animal upon the payment of the impounding fee and any extraordinary expenses incurred by the animal care and services department in providing proper care for such animal. In the event a dispute arises concerning an additional fee charged by the director for unusual expenses, the owner may appeal to the board of animal care and services.
- (F) Fees. Any animal impounded under the terms of this chapter shall be reclaimed as herein provided upon the payment, by the owner or person reclaiming such animal, to the director of the animal care and services department, of the sum of \$35.00 for each animal so impounded. In addition, the animal will be microchipped. On the first impounding of an animal, an additional sum of \$10.00 per day shall be added for each day or part of a day that such animal is boarded. The owner of any animal impounded for a second time shall pay to the director of the animal care and services department the sum of \$35.00 for impound fees and an additional sum of \$20.00 per day shall be added for each day or part of a day that such animal is boarded. In the event that an animal is impounded for a third time, the animal shall be non-returnable. An appeal from the judgment of the director of the animal care and services department may be taken to the board of animal care and services within five days. The animal care and services department shall not be used as a place for the care and custody of dogs not falling within the provisions of this chapter. All fees collected shall be deposited by

the director of the animal care and services department weekly with the head of the city department of finance. Pursuant to the terms of the interlocal agreement entered into between the city and Delaware County on March 19, 2012, the city shall establish a non-reverting fund for capital costs associated with the upgrade, maintenance and replacement of equipment necessary for the operation of the animal care and services department. Twenty percent of the adoption fees, surrender fees, and enforcement of other fees and fines collected by the animal care and services department shall be deposited in the non-reverting fund for capital costs. The remaining fees shall revert to the general fund of the city. The director of the animal care and services department shall keep an accurate and itemized verified account of his receipts and shall make quarterly reports to the common council on the first day of January, April, July, and October of each year. Such reports shall include all receipts and records of impounding and dispositions, either by sale, adoption, or otherwise, of all animals coming into his custody.

(Ord. No. 16-03, § 6, 8-4-03; Ord. No. 51-12, § 5, 1-7-13)

**Sec. 90.07. Neglected or abandoned animals.**

When, in the judgment of the director of the animal care and services department, an animal has been neglected or abandoned the animal shall be impounded and provided such care as needed. An owner aggrieved by such action by the director of the animal care and services department may appeal the action to the city court. Provided, the director may charge the owner for all expenses and costs in connection with caring for and maintaining the animal under IC 35-46-3-6.

- (A) The neglect or abandonment of an animal is a criminal misdemeanor and a violation of this chapter.
- (B) An animal shall be considered abandoned if it is left in or on a vacant residential property.

- (C) Any person violating this section shall be subject to a fine of no more than \$1,000.00. (Ord. No. 16-03, § 7, 8-4-03; Ord. No. 57-06, § 1, 12-4-06; Ord. No. 51-12, § 6, 1-7-13)

**Sec. 90.08. Restraint.**

(A) *General requirements.* All animals, except cats which have been neutered or spayed and are wearing identification or are ear-tipped or tattooed in the case of feral cats, shall be kept under restraint. However, altered cats not kept under restraint at all times are still subject to public nuisance laws cited in section 90.23.

(B) *Animals in heat.* Every female animal in heat shall be confined in a building or secure enclosure in such a manner that the animal cannot come into contact with a male animal of the same species, except for planned breeding.

(C) *Vicious animals.* If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the animal control officer shall request a hearing by the board of animal care and services for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious.

- (1) Whenever possible, any complaint received from a member of the public, which serves as the evidentiary basis for finding probable cause shall be sworn to and verified by the complainant and shall be provided to the board of animal care and services.
- (2) The hearing will be held at the next regularly scheduled meeting of the board of animal care and services and shall be open to the public.
- (3) The owner/temporary caretaker of the animal shall be served with notice of the hearing and a copy of any complaints received by certified mail or in person.
- (4) The animal control officer shall notify the owner/temporary caretaker of the animal of the date and time of such hearing, at which time he or she may present evi-

dence as to why the animal should not be declared potentially dangerous or vicious.

- (a) Such evidence may include eyewitness testimony of the incident; or
  - (b) Evidence that the action of the animal and the damage sustained by the person or other animal could have reasonably been expected to occur given the circumstances of the event. Such circumstances may include, but are not limited to: willful trespass upon the owner/temporary caretaker's property; teasing, tormenting, abusing or assaulting the animal; and/or attempted abuse or assault upon the owner/temporary caretaker.
- (5) The board of animal care and services may consider all relevant evidence, including incident reports, affidavits of witnesses, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.
  - (6) The board of animal care and services may decide all issues for or against the owner/temporary caretaker of the animal even if the owner/temporary caretaker of the animal fails to appear at the hearing.
  - (7) After the hearing, the owner/temporary caretaker of the animal shall be notified in writing of the determination by certified mail or in person:
    - (a) If a determination is made that the animal is potentially dangerous or vicious, the owner/temporary caretaker shall comply with this section's requirements for restraint in accordance with a time schedule established by the board of animal care and services but in no case more than 30 days after the date of the determination.
    - (b) An animal determined to be vicious may be humanely euthanized by the city animal care and services department when it is found by the board of animal care and services that the release of the animal would create a significant threat to the public health, safety, and welfare.
    - (c) If it is determined that an animal found to be vicious shall not be humanely euthanized, the board of animal care and services may impose reasonable conditions upon the ownership of the animal that protect the public health, safety and welfare.
    - (d) Decisions of the board of animal care and services are final.
    - (e) Any party may file a petition for judicial review of the decision made by the board of animal care and services in the city court within ten days of the date of the decision.
  - (8) If, upon investigation, it is determined by the animal control officer or law enforcement officer that probable cause exists to believe the animal in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this section. The owner/temporary caretaker of the animal shall be liable to the city animal care and services department where the dog is impounded for the costs and expenses of keeping the animal, if the animal is later declared potentially dangerous or vicious.
  - (9) A potentially dangerous animal, while on the owner/temporary caretaker's property, shall, at all times, be kept indoors, or in a secured enclosure from which the animal cannot escape, and into which children cannot trespass. A potentially dangerous animal may be off the owner/temporary caretaker's premises only if it is restrained by a substantial leash of appropriate length, and if it is under the control of an adult.

- (10) An animal that has been declared vicious may not be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition, except to a secured enclosure. When outside, all vicious animals must be confined in a secure enclosure, except when necessary to obtain veterinary care.
- (a) All such enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
  - (b) The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure.
  - (c) The enclosure shall be kept locked at all times to prevent unintentional opening.
  - (d) The enclosure shall include suitable shelter and protection from the elements, and shall provide adequate exercise room, light, ventilation, and sanitation.
  - (e) The enclosure shall be approved by the city animal care and services department prior to its usage for confinement.
  - (f) Whenever necessity requires a vicious animal to be outside of the enclosure, the animal shall be securely muzzled and restrained by a leash not exceeding three feet in length, with handgrip, and shall be under the direct control and supervision of the owner/temporary caretaker of the animal.
- (11) The owner/temporary caretaker of a potentially dangerous or vicious animal shall display clearly visible warning signs on all entry points to the premises on which the animal is maintained warning that a potentially dangerous or vicious animal is being harbored on such property. In addition, at least one sign shall be posted on the enclosure in which the animal is maintained. Signs must inform both children and adults of the presence of a potentially dangerous or vicious animal on the property.
- (12) Any animal classified as potentially dangerous or vicious shall not be used for breeding and shall be altered by a licensed veterinarian within 30 days of such classification unless:
- (a) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
  - (b) A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animals shall be altered immediately after the health condition has been corrected.
- (13) If the animal in question dies, or is sold or transferred, the owner/temporary caretaker shall notify the city animal care and services department of the changed condition and new location of the animal in writing within two business days.
- (14) An owner/temporary caretaker may submit one request for reconsideration per year to the board of animal care and services to have the designation of potentially dangerous or vicious removed from his or her animal.
- (a) The application must be in writing.
  - (b) The application must be given to the city animal care and services department and the board of animal care and services.
  - (c) The application shall include detailed information about how the change in circumstances of measures taken by the owner/temporary caretaker, such as training of the animal, have mitigated the risk to public safety.
  - (d) The board of animal care and services may hear evidence, both pro

and con, as to whether and why the designation should or should not be removed.

- (e) The board of animal care and services may make a decision to remove or not to remove such designation.

(Ord. No. 51-12, § 7, 1-7-13)

**Editor’s note**—Ord. No. 51-12, § 7, adopted January 7, 2013, amended § 90.08 to read as setout herein. Former § 90.08 pertained to fierce, dangerous, or vicious dogs; female dogs in heat and was derived from Ord. No. 16-03, § 8, adopted August 4, 2003.

**Sec. 90.08.01 Violations.**

(A) Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation. The penalty established in subsection (B) may, at the discretion of the animal owner/temporary caretaker, be paid to the city animal care and services department within 72 hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the circuit court of competent jurisdiction or city court.

(B) Persons who violate any provision of this chapter shall be subject to the following fine:

- (1) Failure to restrain, first offense, altered animal: \$20.00. Fines for each subsequent offense within 12 consecutive months of first offense increase in increments of \$20.00 per offense.
- (2) Failure to restrain, first offense, unaltered animal: \$100.00.
  - (a) However, an owner/temporary caretaker who agrees to have their dog or cat spayed or neutered at their expense prior to reclaiming the animal from the city animal care and services department, will be assessed the fine for failure to restrain, first offense, altered of \$20.00.
  - (b) Fines for each subsequent offense within 12 consecutive months of first offense increase in increments of \$40.00 per offense.
- (3) An animal that has been previously impounded as a stray or at-large animal and

is now being redeemed for the second of subsequent redemption within the last 12 months will be required to be:

- (a) Implanted with a microchip by the city animal care and services control department at the owner/temporary caretaker's expense for the purpose of future identification and recovery; and
  - (b) Spayed or neutered by a licensed veterinarian at the owner/temporary caretaker's expense prior to the city animal care and services department relinquishing the animal to the owner/temporary caretaker. Should cost be an issue, the city animal care and services department may enter into a payment agreement with the owner/temporary caretaker or the owner/temporary caretaker may sign over ownership rights of the animal to the city animal care and services department.
- (4) Failure to restrain female animal in heat, first offense: \$100.00. Fines for each subsequent offense within 12 consecutive months of first offense are on \$150.00 per offense.
  - (5) Failure to restrain vicious animal or potentially dangerous animal, first offense: \$100.00 per offense. Fines for each subsequent offense within 12 consecutive months of first offense are \$150.00 per offense.
  - (6) Failure to post warning signs for potentially dangerous and/or vicious animals: \$50.00.
  - (7) Failure to notify city animal care and services department of change of status for potentially dangerous and/or vicious animals: \$50.00.
  - (8) Failure to prevent potentially dangerous and/or vicious animals from breeding: \$100.00.
  - (9) Failure to alter potentially dangerous and/or vicious animal within 30 days of such classification: \$100.00.

- (10) Failure to comply with any portion of this chapter, not previously addressed in subsections (B)(1)—(B)(9), shall result in a \$100.00 fine.  
(Ord. No. 51-12, § 20, 1-7-13)

**Sec. 90.09. Adoption, spaying or neutering of cats and dogs.**

It is the announced policy of the common council to encourage the adoption of dogs and cats and in conjunction therewith spaying or neutering these animals.

- (A) *List of participating veterinarians.* The director of the animal care and services department shall maintain a list of all veterinarians who are willing to participate in the spay or neuter program as herein set out. The director shall update the list of participating veterinarians in January of each year hereafter.
- (B) *Adoption and early age spaying/neutering of puppies and kittens.*
  - (1) The director of the animal care and services department in conjunction with the participating veterinarians shall establish guidelines for the early spaying or neutering of puppies and kittens.
  - (2) The animal care and services department shall pay for spay/neuter surgeries of puppies and kittens according to the following schedule:
 

Female puppies . . . . .	\$45.00
Male puppies . . . . .	30.00
Female kittens . . . . .	45.00
Male kittens . . . . .	30.00

All claims must be made to the office of the controller of the city and include a recommendation for payment signed by the director of the animal care and services department.
  - (3) The mayor and the city controller shall, as may be necessary, establish a schedule of fees for all services provided by the animal care and

services department. The schedule shall be conveyed to the director of the animal care and services department where he shall post the schedule and charge such fees as are set out therein.

- (4) Upon payment of the full adoption fee, the director of the animal care and services department shall deliver a coupon for adopted females and males, which have not been spayed/neutered, which must be applied toward the cost of spaying/neutering the adopted animal. The coupon so issued must be used within 30 days from the date of issuance. A person adopting under this paragraph must have the animal spay/neutered within the 30-day period of time. The failure to comply with the terms of this paragraph is a violation of this chapter.
- (C) *Adoption paperwork.* The director of the animal care and services department shall deliver all papers as shall be necessary and recommended by the veterinarian participating in the program, to the individuals adopting animals from the animal care and services department.
- (D) *Goal and annual reporting.* It is the goal of this program to spay/neuter all animals adopted from the animal care and services department. The director shall report, in writing, to the common council in January of each year commencing this program. The report shall show all income from adoptions, all direct expenses from spaying/neutering, all coupons issued, all coupons redeemed, the director's recommendation concerning whether the program should continue and such other information as may be pertinent.  
(Ord. No. 16-03, § 9, 8-4-03; Ord. No. 51-12, § 8, 1-7-13)

**Sec. 90.10. Resistance or obstruction unlawful.**

No person shall resist or obstruct the director or any employee of the animal care and services

department in the exercise of his duties. If a person does resist or obstruct the director or any employee of the animal care and services department in the exercise of his duties, a fine of up to \$500.00 shall be assessed.

(Ord. No. 16-03, § 10, 8-4-03; Ord. No. 51-12, § 9, 1-7-13)

**Sec. 90.11. Capturing dogs.**

No person shall invade the private premises of another to capture, entice, or take any licensed dog out the enclosure of the person harboring the same; molest or seize any such dog while the same is accompanied by its owner, keeper, or custodian; or bring within the city any dog for the purpose of impounding the same collecting any reward for the return thereof, except provided in this chapter.

(Ord. No. 16-03, § 11, 8-4-03)

**Sec. 90.11.01 Interference with another person's animal.**

It shall be unlawful for a person to feed, tease, tantalize, molest or provoke any animal in the city without the express consent of the animal's owner/temporary caretaker, if any, while the animal is on the owner/temporary caretaker's property or under the owner/temporary caretaker's control. A person who violates this section shall be fined in the amount of \$50.00.

(Ord. No. 51-12, § 21, 1-7-13)

**Sec. 90.12. Purchasing or possessing an animal for fighting contests.**

No person shall knowingly own, harbor, or possess a dog primarily or in part for the purposes of dog fighting or which, or any dog trained for dog fighting, or any dog which displays signs, such as wounds, cuts or scratches, of have been involved in dog fighting.

- (A) The violation of this paragraph is a criminal misdemeanor and subject to a fine of not more than \$500.00.

(Ord. No. 16-03, § 12, 8-4-03)

**Sec. 90.13. Animal fighting contests.**

No person shall knowingly or intentionally promote or stage an animal fighting contest.

(Ord. No. 16-03, § 13, 8-4-03)

**Sec. 90.14. Nuisance.**

(A) *Public nuisance prohibited.* No owner/temporary caretaker/colony caretaker shall fail to exercise due care and control of his animals to prevent them from becoming a public nuisance.

(B) *Violations.*

- (1) Any animal control officer may issue to any person in violation of this chapter a notice of ordinance violation. The penalty established in subsection (2) may, at the discretion of the animal owner/temporary caretaker, be paid to the animal care and services department within 72 hours in full satisfaction of the assessed penalty. In the even that such payment is not made within the period prescribed, proceedings shall be filed in a court of competent jurisdiction.
- (2) Persons who violate any provision of this chapter shall be subject to a fine of \$50.00 for the first offense, with the fine of each subsequent offense of this chapter increasing by an increment of \$50.00.
- (3) In the event the person has no additional violations of this chapter for a period of 12 consecutive months, the fine for any violation of this chapter after that period shall be \$50.00 for the first offense, with the fine for each subsequent offense increasing by an increment of \$50.00.

(Ord. No. 51-12, § 10, 1-7-13)

**Editor's note**—Ord. No. 51-12, § 10, adopted January 7, 2013, amended § 90.14 to read as setout herein. Former § 90.14 pertained to barking, howling, and yelping dogs and was derived from Ord. No. 16-03, § 14, adopted August 4, 2003.

**Sec. 90.15. Rabies; method of handling suspected dogs.**

(A) It shall be the responsibility of every dog or cat owner to have all dogs and cats over three months of age owned by him or her continually protected against contracting rabies. The failure

to have an animal protected against contracting rabies is a violation of this chapter; a misdemeanor and the violation hereof may be fined up to \$200.00 for each violation.

(B) If a dog is believed to have rabies or has been bitten by an animal suspected of having rabies, such dog shall be confined by a leash or chain on the owner's premises and shall be placed under observation of a veterinarian at the expense of the owner for a period of two weeks. The owner shall notify the director of the animal care and services department of the fact that his dog has been exposed to rabies, and at his discretion the director of the animal care and services department is empowered to have such dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of two weeks at the expense of the owner.

(C) No person knowing or suspecting a dog of having rabies shall allow such dog to be taken off his premises or beyond the limits of the city without the written permission of the director of the animal care and services department. Every owner or other person, upon ascertaining a dog is rabid shall immediately notify the director of the animal care and services department or a policeman, who shall either remove the dog to the animal care and services department or summarily destroy it.

(D) In the event that the director of the animal care and services department should learn that there is a rabid animal or there is a reasonable expectation that there is a rabid animal in the city, he shall take control of the animal and hold it in quarantine not less than ten days. In the event that the director of the animal care and services department shall learn that a dog has bitten a human being about the head he shall make an investigation, and if he determines there is a reasonable expectation that the animal is rabid he shall immediately deliver the animal to the Delaware County Health Department for diagnosis.

(Ord. No. 16-03, § 15, 8-4-03; Ord. No. 51-12, § 11, 1-7-13)

**Sec. 90.16. Cats.**

(A) Cats shall be subject to all of the remaining sections of this chapter, including impounding and humane euthanasia provisions.

(B) *Feral cats.*

(1) *General requirements.*

(a) All feral cat colonies shall:

1. Operate in such a manner as to not constitute a public nuisance; and
2. Comply with all of the provisions of section 90.30, animal care, of this title, which provides standards for the general care of animals.

(b) Any person who provides food, water or shelter to a colony of feral cats shall be registered with the animal care and services department or its designee.

(c) A person who violates any provision of this chapter shall be subject to a fine of \$25.00 for the first offense, with the fine for each subsequent offense increasing by an increment of \$50.00.

(C) *Managed feral cats.*

(1) The animal care and services department or its designee, in order to encourage the stabilization and reduction of the feral cat population in the city, may:

- (a) Trap any feral cat in a humane manner;
- (b) Have the feral cat surgically sterilized and ear-tipped or tattooed and vaccinated against rabies by a licensed veterinarian; and
- (c) Release the feral cat for adoption or other disposition in accordance with the law or to a colony caretaker who will maintain the feral cat as part of a managed colony of feral cats.

(2) The animal care and services department may impound feral cats in violation of this chapter and humanely euthanize the feral cats in accordance with applicable law. Any feral cat impounded at the animal care and services department that bears an appropriate ear-tipping or tattoo indicating it belongs to a managed colony

shall be returned to its managed colony, if said colony can be determined, unless illness or injury present an imminent danger to public health or safety. Seriously ill or injured feral cats with no reasonable prognosis for humane rehabilitation for survival outdoors may be humanely euthanized.

(D) *Colony caretaker responsibilities.*

- (1) Colony caretakers shall abide by standard trap-neuter-return guidelines devised by the animal care and services department or its designee regarding the provision of food, water, shelter and veterinary care within the managed colony.
- (2) A colony caretaker shall not have ever been convicted of animal cruelty.
- (3) A colony caretaker shall not allow a cat(s), which is part of his/her colony to become a public nuisance.
- (4) Colony caretakers shall have a licensed veterinarian evaluate the health of all trapped free-roaming cats. Seriously ill or injured cats with no reasonable prognosis for humane rehabilitation for survival outdoors will be humanely euthanized.
- (5) Colony caretakers shall be registered with the animal care and services department or its designee.
- (6) A person who violates any provision of this chapter shall be subject to a fine of \$25.00 for the first offense, with the fine for each subsequent offense increasing by an increment of \$50.00. In addition, subsequent or continued violations will cause the caretaker's removal from management of the managed colony, or the designee's removal from the program.

(Ord. No. 16-03, § 16, 8-4-03; Ord. No. 51-12, § 12, 1-7-13)

**Sec. 90.17. Selling baby chicks, rabbits.**

(A) No person shall sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl under three weeks of age, or rabbits under two months of age, as pets, toys, premiums, or

novelties. In addition, no person shall sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl under three weeks of age, or rabbits under two months of age along the roadside. Nor shall any person color, dye, stain, or otherwise change the natural color of any chickens, ducklings, other fowl, or rabbits, or bring or transport the same into the city. However, this section shall not be construed to prohibit the sale or display of baby chickens, ducklings, other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising.

(B) *Giving animals as prizes.*

- (1) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contract, game or other competition, or as an inducement to enter a place of amusement: or offer such vertebrate as an incentive to enter into any business agreement in which the offer was for the purpose of attracting trade.
- (2) This section does not apply to 4-H auctions and/or charity fundraisers.
- (3) No person shall auction any live animal, except domestic livestock.
- (4) Violations. Any animal control officer may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (5) may at the discretion of the animal owner/temporary caretaker, be paid to the animal care and services department within 72 hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filled in a court of competent jurisdiction.
- (5) Persons who violate any provision of this section shall be subject to a fine of \$100.00 for each offense.

(Ord. No. 16-03, § 17, 8-4-03; Ord. No. 51-12, § 13, 1-7-13)

**Sec. 90.18. Running at large generally.**

No person shall permit his horse, mare, colt, mule, jackass, jenny, bull, ox, cow, calf, goat, sheep, or swine to run at large within the city. (Ord. No. 16-03, § 18, 8-4-03)

**Sec. 90.19. Keeping or harboring of livestock prohibited in certain residential areas.**

No person occupying property within the city of Muncie, which is zoned under Title XV, section 150, of the zoning code, as R-1, R-2, R-3, R-4, R-5, or R-6 residence zones shall keep or harbor any livestock or poultry on such property.

(A) For the purposes of this section 90.19 livestock shall mean:

- (1) All cattle, or animals of the bovine species;
- (2) All horses, mules, burros, and asses or animals of the equine species;
- (3) All swine or animals of the porcine species;
- (4) All goats or animal of the caprine species;
- (5) All poultry.

(Ord. No. 16-03, § 19, 8-4-03)

**Sec. 90.20. Keeping or harboring undomesticated animals in residential areas.**

No person occupying property within the city of Muncie, which is zoned under title XV, Section 150, of the zoning code, as R-1, R-2, R-3, R-4, R-5 or R-6 residence zones shall keep or harbor undomesticated animals on such property.

(Ord. No. 16-03, § 20, 8-4-03)

**Sec. 90.21. Fowl running at large.**

The running at large within the city of chickens and other fowl is unlawful and is prohibited. It shall be the duty of each and every owner or custodian of any chicken or other fowl within the city to confine the same upon his premises.

(Ord. No. 16-03, § 21, 8-4-03)

**Sec. 90.22. Reserved.**

**Editor's note**—Ord. No. 51-12, § 18, adopted January 7, 2013, repealed § 90.22 in its entirety. Former § 90.22 pertained to impounding of animals and fowl; sale of same and was derived from Ord. No. 16-03, § 22, adopted August 4, 2003.

**Sec. 90.23. Kennels.**

A person or entity keeping and maintaining a kennel shall not be required to purchase a dog tag for each animal under the control of the owner. But the owner of a kennel is required to obtain an annual kennel license for a fee of \$50.00 per year which must be paid for, in the office of the animal care and services department, on or before the 30th day of January of each year hereafter. The license shall be approved each year by the director of the animal care and services department and by city building commissioner. It is required that a kennel must comply with the provisions of the city zoning ordinances.

- (A) The owner of a kennel shall keep it in a clean and sanitary condition at all times, and dogs and cats shall be reasonable restrained from annoying the neighborhood or the general public by loud, frequent or habitual barking, yelping or howling.

(Ord. No. 16-03, § 23, 8-4-03; Ord. No. 43-04, § 2, 10-4-04; Ord. No. 51-12, § 14, 1-7-13)

**Sec. 90.24. Striking animal with motor vehicle.**

(A) Any person driving a motor vehicle in the city whose vehicle strikes a domestic animal shall report to the animal shelter or to the police division:

- (1) The description of the animal struck;
- (2) The location of the striking; and
- (3) An opinion of the condition of the animal struck.

(B) This person shall not be required to identify himself.

(Ord. No. 16-03, § 24, 8-4-03)

**Sec. 90.25. Violations.**

The violation of any paragraph or provision of this chapter is a misdemeanor. A person found guilty of the violation of any paragraph or provision of this ordinance is subject to a fine not to exceed \$500.00 for each violation.

(Ord. No. 16-03, § 25, 8-4-03)

**Sec. 90.26. Prior laws repealed.**

All laws dealing with animals of any kind or character that are now existing are hereby repealed.

(Ord. No. 16-03, § 26, 8-4-03)

**Sec. 90.27. Cruelty to animals.**

When, in the judgment of director of the animal care and services department, or his designee, an animal has been treated in a cruel manner the animal shall be impounded and provided such care as needed. An owner aggrieved by such action by the director of the animal care and services department may appeal the action to the city court. Further, the director may charge the owner for all expenses and costs in connection with caring for and maintaining the animal.

(A) Cruelty towards an animal is a criminal misdemeanor and a violation of this chapter.

(B) Persons in violation of this section shall be fined in an amount not more than \$2,500.00.

(Ord. No. 16-03, § 27, 8-4-03; Ord. No. 51-12, § 15, 1-7-13)

**Sec. 90.28. Pet shops.**

(A) *Permits—General.* No person or organization shall operate a pet shop or rescue facility (collectively referred herein as "animal establishments") except for the animal care and services department without first obtaining a permit in compliance with this chapter. Every animal establishment regulated by this chapter shall be considered a separate enterprise and shall require an individual permit.

(B) *Inspection of animals and premises authorized.* It shall be a condition of the issuance of any permit required by this chapter that the director

of the animal care and services department shall be permitted to inspect, at any time, all animals and the premises where such animals are kept.

(C) *Obtaining a permit.* Applicants must apply for permits required by this chapter with the director of the animal care and services department. The application must contain, in addition to provided information as to whether the owner and/or operator of the animal establishment has been convicted of cruelty to animals, a statement that the owner and/or operator complies and will continue to comply with this chapter, and that he/she authorizes the director of the animal care and services department to inspect his/her facilities and animals. The permit shall be issued when the applicants comply with the laws and regulations pertaining to the issuance of permits and pays the required fee. If the applicant withholds and/or falsifies any information on the application, the permit shall not be issued, and any permit issue upon false and/or withheld information shall be null and void. No permit to operate an animal establishment shall be issued to an applicant who has been convicted of cruelty to animals without review by the director of the animal care and services department.

(D) *Standards.* In order to be eligible to obtain a permit, an animal establishment must:

- (1) Be operated in such a manner as to not constitute a public nuisance;
- (2) Provide an isolation area for animals which are sick or diseased so as to not endanger the health of other animals;
- (3) Keep all animals caged, within secure enclosure or under the control of the owner or operator at all times;
- (4) With respect to all animals kept on the premises, comply with all of the provisions of this title providing for the general care of animals; and
- (5) Not sell animals, which are unweaned or obviously diseased.

(E) *Permit period.* The permit period shall begin on January 1 and shall run for one-year. Applicants requiring a permit during the year shall pay a prorated fee for the remaining portion

of the year. Applications must be made within ten days of the establishment of a spay/neuter assistance fund.

(F) *Fees.* Pet shops shall pay a permit fee of \$200.00. Non-profit animal rescue facilities shall pay an annual fee of \$100.00. The fee will go to the animal care and services department for an establishment of a spay/neuter assistance fund.

(G) *Violations.* Owners and/or operators who violate any provision of this chapter shall be subject to a fine of double the permit fee of the first offense, with the fine for each subsequent offense of this chapter increasing an a increment of double the permit fee. In the event that a person has no violations of this chapter for a period of 12 consecutive months after the date of the first offense, the fine a subsequent offense shall be double the permit fee, with the fine for each subsequent offense to increase by an increment of double the permit fee.

(Ord. No. 56-06, §§ 2—8, 12-4-06; Ord. No. 15-08, § 1, 7-7-08; Ord. No. 51-12, § 16, 1-7-13)

**Sec. 90.29. Microchip implants for adopted dogs and impounded dogs.**

(A) *Microchip implant of adopted dogs.* Any dog adopted through the animal care and services department shall be implanted with a microchip implant as a condition of adoption.

(B) *Microchip implant of impounded dogs.* Any dog impounded by the animal care and services department shall be implanted with a microchip implant as a condition of release.

(C) *Penalty.* It shall be a violation of this code section to remove an implanted microchip. A violation of this code section will be a misdemeanor. A person found guilty of the violation is subject to a fine not to exceed \$500.00 for each violation.

(Ord. No. 58-06, §§ 1—3, 12-4-06; Ord. No. 51-12, § 17, 1-7-13)

**Sec. 90.30. Animal care.**

(A) Every owner/temporary caretaker/colony caretaker of an animal within the city shall see that his animal:

- (1) Is kept in a clean, sanitary, and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement;

- (2) Has proper and adequate food, water, shelter, and protection from the weather;
- (3) Is kept in an enclosure, ensure that the enclosure is appropriate to their species and/or breed. Such enclosure is to be constructed in a manner to enable the animal to remain clean and dry, to prevent the animal's injury or escape, and to be able to be disinfected. However, no flooring may be used to house dogs or cats which would allow their feet or legs to fall through and all enclosures shall contain an area that allows the animal to be on a solid surface; and
- (4) If diseased or injured, receives care as necessary to prevent suffering and, if diseased, is segregated from other animals so as to prevent the transmittal of the disease to other animals.

(B) Any domestic pet or feral cat that is owned or harbored and habitually kept outside or repeatedly left outside unattended by an adult person for such periods of time as may cause suffering or endanger the health or well-being of the animal shall be provided with a structurally sound, moisture proof and windproof shelter large enough to keep the animal reasonably clean and dry and provide adequate protection from the cold and heat. Shelter must be placed in a dry area free of debris, feces and standing water.

(C) If multiple animals are present in one location, each animal must have access to shelter and the owner/temporary caretaker/colony caretaker must meet all standards for each animal, as detailed in this section.

(D) The shelter must have bedding to provide insulation and protection against cold and dampness and promote the retention of body heat.

(E) Appropriate medical care and grooming of animals must be provided.

(F) No chain or tether shall weigh more than one-eighth of the animal's body weight.

(G) Any chain or tether shall be at least ten feet in length and have swivels on both ends.

(H) Any chain or tether must be attached to a properly fitting buckle-type collar or harness worn by the animal. Choke collars and pinch collars are prohibited for purposes of tethering an animal to a stationary object or cable run. A person may not wrap a chain or tether around an animal's neck. A chain or tether used to restrain an animal must, by design and placement, be unlikely to become entangled.

(I) It shall be unlawful for the owner/temporary caretaker/colony caretaker of any animal to keep or maintain the animal on a tether for any duration under conditions, which threaten the health or well being of the animal.

(J) A muzzle may not be worn continuously as a means for controlling barking.

(K) A person may not restrain an animal in a manner that does not allow the animal to have access to necessary shelter, water and food.

(L) A person may not restrain an animal in a manner that allows the animal to move outside property owned, lawfully occupied or controlled by the person.

(M) Any person who owns or harbors any intact female dog or cat shall, during the period that such animal is in heat or in estrus, shall keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female, except for controlled breeding permitted by the owner/temporary caretaker/colony caretaker of the female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a mate.

(N) It shall be unlawful for any person to place or confine or allow any animal to be confined in such a manner that it must remain in a motor vehicle, trailer, or pet carrier under such conditions for such periods of time as may cause suffering or endanger the health or well-being of the animal due to extreme temperatures of lack of food or water.

(O) Any animal control officer may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (P) may, at the discretion of the animal

owner/temporary caretaker/colony caretaker, be paid to the city animal care and services department within 72 hours in full satisfaction of the assessed penalty. In the event that such payment is not made within the period prescribed, proceedings shall be filed in the county court of competent jurisdiction or city court.

(P) Persons who violate any provision of this section shall be subject to a fine of \$100.00 for each offense.

(Ord. No. 51-12, § 22, 1-7-13)