



ORDINANCE 48 -12

AN ORDINANCE ADOPTING CERTAIN SECTIONS OF CHAPTER 90, AMENDING CERTAIN SECTIONS OF CHAPTER 90, AND REPEALING CERTAIN SECTIONS OF CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA

WHEREAS, Chapter 90 of Muncie City Code governs Animals in the City of Muncie, and,

WHEREAS, due to a review and recommendations of the Animal Ordinances by the Board of Animal Care and Services conducted in order to maintain compliance with changes in the standards of practices throughout the animal care community, it has been determined that certain sections of this chapter need to be amended, repealed and adopted.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Muncie, Indiana, as follows:

- 1. Chapter 90, Section 1, Definitions, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

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 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 Muncie 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) *Guardian*. A person who is a temporary caretaker of an animal; not an owner.
- (I) *Harborer*. 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.
- (J) *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 five or more dogs over a year old, or the keeping of six or more cats over four months old, or the keeping of more than eight dogs or cats.

- (K) 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.
- (L) Neglect. The failure to provide an animal proper medical care, the failure to provide proper housing, or the failure to provide food and water.
- (M) 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 twelve (12) months from the date of the last vaccination.
- (N) Owner. Any person keeping or harboring a dog or other animal.
- (O) 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.
- (P) 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, harborer and/or colony caretaker, unless the waste is immediately removed and disposed of in a sanitary manner by the animal's owner, guardian, harborer, and/or colony caretaker; or
 - (6) Otherwise interferes with the free use and comfortable enjoyment of life or property.
- (Q) 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 Indiana State Board of Health.
- (R) 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.
- (S) Severe injury. Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- (T) Stray. Any animal that does not appear, upon reasonable inquiry, to have an owner/guardian.
- (U) 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.
- (V) 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.
- (W) Undomesticated animals. Animals that usually live in the wild, such as, but not limited to bears, lions, snakes, cougars, or coyotes.
- (X) 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.
2. Chapter 90, Section 4, Control licensing and registration of dogs, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

Sec. 90.04. Identification and registration of dogs.

(A) *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.

- (1) 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 shelter, or to any other person having legal authority to inquire into the matter.
- (2) Any person violating this section shall be subject to a fine of no less than Fifty Dollars (\$50.00).
- (3) The Director of the Animal Shelter will maintain a list of microchip registrations from animals that have been processed through the animal shelter.

3. Chapter 90, Section 6, Running at large, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

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 shelter, impounded at the animal shelter, and confined there in a humane manner for a period of not less than five (5) 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 person in charge of the animal shelter 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 (5) 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 shelter may be taken to the Board of Animal Care and Services within five (5) 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 shelter as to whether or not the dog shall be humanely euthanized.
- (D) Immediately upon the impounding of a dog or other animal, the agent of the animal shelter 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 shelter 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 shelter, of the sum of Thirty-five Dollars (\$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 Ten Dollars (\$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 shelter the sum of Thirty-five Dollars (\$35.00) for impound fees and an additional sum of Twenty Dollars (\$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 shelter may be taken to the Board of Animal Care and Services within five (5) days. The animal shelter 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 shelter weekly with the head of the department of finance, and the sum shall revert to the general fund. The director of the animal shelter 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.

4. Chapter 90, Section 7, Neglected or abandoned animals, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

Sec. 90.07 Neglected or abandoned animals.

When, in the judgment of the director of the Muncie animal shelter, 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 shelter may appeal the action to the City Court of the City of Muncie. Provided, the director may charge the owner for all expenses and costs in connection with caring for and maintaining the animal.

- (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 One Thousand Dollars (\$1000.00).

- 5. Chapter 90, Section 8, Fierce, dangerous, or vicious dogs; female dogs in heat, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

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 (14) of this title.

(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/guardian 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/guardian of the animal of the date and time of such hearing, at which time he or she may present evidence 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/guardian's property; teasing, tormenting, abusing or assaulting the animal; and/or attempted abuse or assault upon the owner/guardian.

- (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/guardian of the animal even if the owner/guardian of the animal fails to appear at the hearing.
- (7) After the hearing, the owner/guardian 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/guardian shall comply with this section's requirements for restraint in accordance with a time schedule established by the Board of Animal Caare and Services but in no case more than thirty (30) days after the date of the determination.
 - (b) An animal determined to be vicious may be humanely euthanized by the City of Muncie animal shelter 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.
- (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/guardian of the animal shall be liable to the City of Muncie animal shelter 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/guardian'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/guardian'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 enclosure 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 of Muncie 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/guardian of the animal.
- (11) The owner/guardian 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 thirty (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/guardian shall notify the City of Muncie Animal Care and Services Department of the changed condition and new location of the animal in writing within two (2) business days.
- (14) An owner/guardian 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 of Muncie 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/guardian, 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.

6. Chapter 90, Section 10, Resistance or obstruction unlawful, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

Sec. 90.10. Resistance or obstruction unlawful.

No person shall resist or obstruct the director or any employee of the animal shelter in the exercise of his duties. If a person does resist or obstruct the director or any employee of the animal shelter in the exercise of his duties, a fine of up to Five Hundred Dollars (\$500.00) shall be assessed.

7. Chapter 90, Section 14, Barking, howling, and yelping, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

Sec. 90.14. Nuisance

(A) Public nuisance prohibited.

No owner/guardian/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) of this section may, at the discretion of the animal owner/guardian, be paid to the City of Muncie animal shelter within seventy-two 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 a court of competent jurisdiction.
- (2) Persons who violate any provision of this chapter shall be subject to a fine of Fifty Dollars (\$50.00) for the first offense, with the fine of each subsequent offense of this chapter increasing by an increment of Fifty Dollars (\$50.00).
- (3) In the event the person has no additional violations of this chapter for a period of twelve consecutive months, the fine for any violation of this chapter after that period shall be Fifty Dollars (\$50.00) for the first offense, with the fine for each subsequent offense increasing by an increment of Fifty Dollars (\$50.00).

8. Chapter 90, Section 16, Cats, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

Sec. 90.16 Cats.

- (A) Cats shall not be subject to the license provisions of this chapter as provided for dogs, but shall be subject to all of the remaining sections of this chapter, including impounding and disposal provisions.
- (B) Feral Cats.
 - (1) General Requirements.

- (a) All feral cat colonies shall:
 - (i) Operate in such a manner as to not constitute a public nuisance; and
 - (ii) Comply with all of the provisions of Chapter 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 City of Muncie 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 Twenty-five dollars (\$25.00) for the first offense, with the fine for each subsequent offense increasing by an increment of Fifty Dollars (\$50.00).
- (C) Managed feral cats.
- (1) The City of Muncie Animal Care and Services Department or its designee, in order to encourage the stabilization and reduction of the feral cat population in the City of Muncie, 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 City of Muncie Animal Care and Services Department may impound feral cats in violation of this chapter and humanely euthanized of the feral cats in accordance with applicable law. Any feral cat impounded at the City of Muncie animal shelter 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 City of Muncie 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) A person who violates any provision of this chapter shall be subject to a fine of Twenty-five dollars (\$25.00) for the first offense, with the fine for each subsequent offense increasing by an increment of Fifty Dollars (\$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.

9. Chapter 90, Section 17, Selling baby chicks, rabbits, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

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) of this section may at the discretion of the animal owner/guardian, be paid to the City of Muncie Animal Care and Services Department within seventy-two (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 One Hundred Dollars (\$100.00) for each offense.

10. Chapter 90, Section 23, Kennels, of the Code of Ordinances of the City of Muncie, shall be amended to read as follows:

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 Fifty Dollars (\$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 shelter and by City of Muncie 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.

11. Chapter 90, Section 20, Impounding of animals and fowl, of the Code of Ordinances of the City of Muncie, shall be repealed.

12. Chapter 90, Section 90.08.01, Violations, shall be added to the Code of Ordinances of the City of Muncie, reading as follows:

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) of this section may, at the discretion of the animal owner/guardian, be paid to the City of Muncie Animal Care and Services Department within seventy-two (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 Muncie 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: Twenty Dollars (\$20.00).
Fines for each subsequent offense within twelve (12) consecutive months of first offense increase in increments of Twenty Dollars (\$20.00) per offense.
 - (2) Failure to restrain, first offense, unaltered animal: One Hundred Dollars (\$100.00).
 - (a) However, an owner/guardian who agrees to have their dog or cat spayed or neutered at their expense prior to reclaiming the animal from the City of Muncie Animal Care and Services Department, will be assessed the fine for failure to restrain, first offense, altered of Twenty Dollars (\$20.00)
 - (b) Fines for each subsequent offense within twelve (12) consecutive months of first offense increase in increments of Forty Dollars (\$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 twelve (12) months will be required to be:
 - (a) Implanted with a microchip by the City of Muncie Animal Care and Services Control Department at the owner/guardian's expense for the purpose of future identification and recovery; and
 - (b) Spayed or neutered by a licensed veterinarian at the owner/guardian's expense prior to the City of Muncie Animal Care and Services Department relinquishing the animal to the owner/guardian. Should cost be an issue, the City of Muncie Animal Care and Services Department may enter into a payment agreement with the owner/guardian or the owner/guardian may sign over ownership rights of the animal to the City of Muncie Animal Care and Services Department.
- (4) Failure to restrain female animal in heat, first offense: One Hundred Dollars (\$100.00).
 Fines for each subsequent offense within twelve (12) consecutive months of first offense are on One Hundred fifty Dollars (\$150.00) per offense.
- (5) Failure to restrain vicious animal or potentially dangerous animal, first offense: One Hundred Dollars (\$100.00) per offense.
 Fines for each subsequent offense within twelve consecutive months of first offense are One Hundred fifty Dollars (\$150.00) per offense.
- (6) Failure to post warning signs for potentially dangerous and/or vicious animals: Fifty Dollars (\$50.00)
- (7) Failure to notify City of Muncie Animal Care and Services Department of change of status for potentially dangerous and/or vicious animals: Fifty Dollars (\$50.00).
- (8) Failure to prevent potentially dangerous and/or vicious animals from breeding: One Hundred Dollars (\$100.00).
- (9) Failure to alter potentially dangerous and/or vicious animal within thirty (30) days of such classification: One Hundred Dollars (\$100.00).
- (10) Failure to comply with any portion of this chapter, not previously addressed in subsections (B)(1) through (B)(9) of this section, shall result in a One Hundred Dollar (\$100.00) fine.

13. Chapter 90, Section 90.11.01, Interference with another person's animal, shall be added to the Code of Ordinances of the City of Muncie, reading as follows:

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/ guardian, if any, while the animal is on the owner/guardian's property or under the owner/guardian's control. A person who violates this section shall be fined in the amount of Fifty Dollars (\$50.00).

14. Chapter 90, Section 90.30, Animal Care, shall be added to the Code of Ordinances of the City of Muncie, reading as follows:

Sec. 90.30. Animal Care

- (A) Every owner/guardian/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/guardian/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/guardian/colony caretaker of any animal to keep or maintain the animal on a tether for a period of more than ten (10) continuous hours and no more than twelve (12) hours in any twenty-four (24) hour period, or 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/guardian/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 or lack of food or water.
- (O) No person shall intentionally or unintentionally cause or allow the breeding of more than one litter per female cat or dog in a twelve-month period.
- (P) Any animal control officer may issue to any person in violation of this section a notice of ordinance violation. The penalty established in subsection (Q) of this section may, at the discretion of the animal owner/guardian/colony caretaker, be paid to the City of Muncie Animal Care and Services Department within seventy-two (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 Muncie City Court.
- (Q) Persons who violate any provision of this section shall be subject to a fine of One Hundred Dollars (\$100.00) for each offense.

This ordinance shall be in effect from and after its passage by the Common Council, signature of the mayor or override of any veto.