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## Chapter 6.05 ANIMAL CONTROL

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### **6.05.010 Title and applicability of chapter.**

This chapter shall be known as the “Animal Control Chapter.” This chapter shall not apply to the United States or the State of Indiana, a governmental law enforcement agency, or to Mesker Park Zoo and Botanic Gardens. [1983 Code § 9.90.01.]

### **6.05.020 Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“501(c)(3) organization or entity” shall mean an entity that has been given tax exempt status under 26 USCA 501(c)(3).

“Abandon” means to deposit, leave, drop off or otherwise dispose of any live animal on public or private property.

“Agent” means person(s) 18 years or older authorized by an owner to act in the owner’s behalf.

“Alpha-rollover” means a corrective and physically abusive training method that can and often does trigger a dangerous and defensive response from the animal. It is characterized by the rough throwing of a dog onto its back, holding down by the throat, and placing a knee in the dog’s chest or stomach, screaming at him and staring into his eyes.

“Altered animal” means any animal that has been operated on or has been given medication to prevent it from procreating.

“Animal” means any living, nonhuman vertebrate or nonvertebrate creature, domestic, wild or exotic.

“Animal assemblage” means the gathering on one lot of seven or more altered dogs and/or altered cats over the age of six months.

“Animal Care and Control (ACC)” means the agency of the City of Evansville charged with the enforcement of the terms of this chapter.

“Animal Control and Education Commission” means the governing board established by EMC [6.05.110](#).

“Animal Control Officer (ACO)” means a person authorized to carry out the provisions in this chapter.

“Animal dealer” means any person who buys, sells, keeps, or breeds animals for a commercial purpose.

“Animal establishment” means an animal dealer, animal day care facility, stable, or pet shop.

“Animal nuisance” means an animal which:

- (1) Interferes with or molests passersby or passing vehicles;
- (2) Attacks other animals or persons;
- (3) Is at large;
- (4) Damages private or public property;
- (5) Causes frequent, long, continued, loud noises or other sounds common to its species which disturb the comfort or repose of any person in the immediate neighborhood of any residential area, not to include operations of boarding kennels, kennels, training facilities or the practice of animal husbandry;
- (6) Is in heat which is not confined or restrained so as to prevent attraction or contact with other animals;
- (7) Damages, soils, defiles, or defecates on any public right-of-way;
- (8) Trespasses on, soils, defiles, defecates on or damages private or public property, including, but not limited to, the leaving of waste material; or
- (9) Is allowed to create any condition which poses a substantial risk of harm to the public health, safety, welfare, or environment;

If an animal is defending itself, its master, or its master’s home, it is not an animal nuisance.

“Animal performance or exhibition” means any spectacle, performance, display, act, exhibition, or event in which an animal or animals are used.

“Animal shelter” means a facility or vehicle operated by a government or private entity for the purpose of providing or promoting animal welfare and the humane treatment of animals.

“Animal welfare organization” means any not-for-profit organization for the prevention of cruelty or neglect to animals incorporated under State laws.

“At large” means any animal that is:

- (1) Not on a leash and is off the property of its owner, its owner’s agent, or its keeper;
- (2) On a leash that does not adequately confine the animal to the property of its owner, its owner’s agent, or its keeper; or
- (3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

“Attack” means aggressive physical contact initiated by the animal.

“Bite” means to seize, tear, wound or cut with teeth, resulting in a break in the skin. Refer to State Form 14072 (most current revision).

“Breeder” means any person who harbors any animals, except livestock, requiring a license or permit to be possessed within the City, and (intentionally or accidentally) allows and/or causes these animals to procreate and/or offers for sale or sells, trades or receives other compensation or gives away any litter of dogs or cats, except for dogs or cats taken to the animal control shelter or any 501(c)(3) animal shelter or animal welfare organization, and has the female spayed within 10 weeks of the birth of a litter.

“Business day” means any day other than weekends and holidays recognized by the City.

“Cattery” means a facility operated principally for the purpose of boarding, housing, or grooming of cats.

“Collar” means a stiff band of leather, plastic, strong fabric, or metal placed around the neck of an animal to identify it or to attach it to a lead or leash.

“Commission” means the Animal Control and Education Commission.

“Controlled animal” means any animal not defined as a domestic animal in this chapter with the exception of small, nonpoisonous reptiles, nonpoisonous amphibians, harmless invertebrates and small birds. Such controlled animals shall also include any animal for which the possession or ownership is controlled or regulated by Federal or State law, or municipal ordinance or regulations concerning licensing or the issuance of permits. Such controlled animals shall include, but not be limited to, the following:

- (1) All poisonous animals by genetic disposition including insects, spiders, reptiles, amphibians, invertebrates, and rear-fang snakes.
- (2) All primates (Order Primates).
- (3) All nondomestic carnivores (Order Carnivora).
- (4) Crocodylians.
- (5) Large constrictor snakes, specifically: reticulated pythons (*Python reticulatus*), amethystine pythons (*Morelia amethystina*), green anacondas (*Eunectes murinus*), Indian pythons (*Python molurus*) and African rock pythons (*Python sebae*).
- (6) Endangered species or any species considered to be protected by Federal or State law or international trade agreements.
- (7) Fur-bearing animals raised to provide products for the fur trade.
- (8) Game cocks and other fighting birds.
- (9) Piranha fish.
- (10) Sharks over one pound.

“Crime prevention animal” means an animal trained and used primarily for the protection of persons or property, or both.

“Custodian” means any person who owns or keeps, harbors, feeds, or has the charge or control of an animal.

“Dangerous animal” means any animal which presents a substantial threat of bodily harm to any person or pet in its vicinity or if it were to escape its primary enclosure or escape from the control of its owner or custodian. Such determination is to be made from past acts of aggressive behavior justifying the determination that it is a dangerous animal. A dog’s breed shall not be considered in determining whether or not it is “dangerous.” This definition excludes K-9 corps dogs in use by the military or government law enforcement agencies.

“Designee” means a person selected, appointed or nominated for a particular purpose or duty.

“Domestic animal” shall include, but is not limited to:

- (1) Dog;
- (2) Cat;
- (3) Cattle (bovine);
- (4) Horse;
- (5) Sheep;
- (6) Goat;
- (7) Rabbit;
- (8) Mouse;
- (9) Rat;
- (10) Donkey;
- (11) Guinea pig;
- (12) Hamster;
- (13) Gerbil;
- (14) Pigeon, homing or racing;
- (15) Chicken, turkey, goose, duck;
- (16) Llama;
- (17) Pig;
- (18) Bison;
- (19) Chinchilla;
- (20) Mink;
- (21) Ferret.

“Escape-proof enclosure” is a facility secured by latch, bolt or lock and is a contained enclosure by wire (minimum of 11 gauge) kennel, six-sided, of which one can be concrete or brick floor, which an animal cannot escape from without opening a lock, bolt, etc.

“Excessive” means more than is normal or necessary.

“Exotic animal” means any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii, except fish and fur-bearing animals commercially bred for the furrier trade and birds protected under Federal laws and regulations.

“Exposed to rabies” means any human or nonhuman warm-blooded mammal that has been bitten or in contact with any other animal known or reasonably suspected to have been infected with rabies.

“Extraordinary animal” means any animal that is not a domestic animal.

“Fight” means a conflict between two or more animals that is intentionally organized for such purpose.

“Fowl” means any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots or similar types of birds normally kept in cages.

“Front yard” means the portion of the lot from the street to the main exterior wall of the residence or other principal structure on the lot.

“Handicapped person” shall mean a person who has a permanent disability involving an anatomical, physiological, or mental deficiency that prevents or restricts normal achievement, including, but not limited to, persons who have need of the use of a wheelchair or persons who are visually or hearing impaired so as to require the assistance of a dog for daily activities.

“Harboring” means the actions of any person that permits any animal habitually to remain or to lodge or to be fed within his/her home, store, enclosure, yard, place of business, or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three or more consecutive days.

“Helicoptering” means a corrective and physically abusive training method. It is characterized by the dog being hoisted by leash and neck collar off his/her feet and swinging the dog above ground in a 360-degree circle, often resulting in a loss of oxygen to the animal’s brain.

“Humane Officer” means the City law enforcement officer appointed as such under the provisions of IC 36-8-3-18.

“Inadequately ventilated” means insufficient circulation of air to provide an odor-free, healthy environment.

“K-9 dog” means a professionally trained dog used by public safety officers for law enforcement or investigative purposes and activities.

“Keeper” means any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling, or caring for such animal. A person shall be construed as a keeper of an animal even if she or he does not have the owner’s permission.

“Kennel” means a facility operated principally for the purpose of boarding, housing, grooming, or training of dogs.

“Large animal” means a cow, horse, pony, donkey, mule, goat, sheep, swine, or llama.

“Leash” means a cord, chain, rope, strap or other such physical restraint.

“License” or “permit” shall mean a written instrument evidencing approval by a governmental entity to possess an animal or permission to undertake a regulated task. “License” is generally used when referring to the right to possess an animal, and “permit” is generally used when referring to the right to undertake a task or activity or operate a business.

“Microchip” means a computer chip, implanted underneath the skin of an animal (in the universal position between the scapulas) which contains information relating to that animal.

“Microchip reader” means an electronic device that detects any implanted microchip.

“Muzzle” means a device constructed of a strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

“Neighborhood” shall mean the subject property and any property within two blocks thereof in any direction.

“Nip” means to pinch or squeeze with the teeth, not necessarily breaking the skin or damaging any tissue.

“Not-for-profit” means a corporation, business, association, or entity established as a not-for-profit entity under State law or recognized as not-for-profit by the Internal Revenue Service or the Indiana Department of Revenue.

“Off property” means beyond the legal boundaries of the real property on which the owner, agent, or keeper resides.

“Overcrowded” means beyond what is usual or comfortable.

“Owner” means any person age 18 years or older, partnership, or corporation, or other legal entity recognized by the State of Indiana, owning or harboring one or more animals.

“Person” means an individual, firm, limited liability company, association, partnership, corporation or other legal entity recognized under the laws of the State of Indiana.

“Pet” means any animal owned or harbored for pleasure and companionship.

“Pet shop” or “grooming shop” means a business operated separately or in connection with another business enterprise, engaged in the care, bathing, clipping, or plucking or possession of animals for display and sale of pets.

“Primary enclosure” means:

- (1) A structure which is suitable to prevent the entry of young children (under 12 years of age) and to prevent the animal from escaping;
- (2) A structure with secure sides and a secure top or just secure sides which are of sufficient height to prevent the dog from escaping over the sides;
- (3) A structure whose sides are so constructed at the bottom as to prevent the animal’s escape by digging under the sides; or
- (4) A structure which provides appropriate protection from the elements for the dog.

A secure enclosure shall include a workable tumbler-type lock.

“Primary restraint” means any device or mechanism that provides physical restraint used or intended to restrict an animal to a limited amount of space including, but not limited to, a room, pen, run, cage, compartment, pool, or hutch.

“Provoke” means to deliberately arouse, incite or excite.

“Public gathering” shall mean an assembly of persons gathered together to attend or participate in any show, exhibition, festival, meeting, parade or event of a common purpose or design.

“Purchaser” means a person who purchases any domestic animal without intent to resell.

“Rabies vaccination” means the injection by a licensed veterinarian of a dog, cat or other animal with a rabies vaccine licensed by the USDA and approved by the Indiana State Board of Health according to the compendium for rabies published yearly.

“Rehabilitation agent” means any person possessing valid licenses and permits as required under Federal and State law, City ordinance, and the regulations of the Department of Natural Resources to rehabilitate and release wild animals.

“Restraint” means under control by being adequately secured, without means of escape, in a pen, fenced enclosure, corral, cage, house, vehicle, or other secure enclosure.

“Safety” means freedom from danger or injury.

“Serious bodily injury” means bodily injury which creates a substantial risk of death or causes serious permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of a bodily member or organ.

“Service animal” means any animal that is trained to assist a disabled person.

“Shelter” means a facility used to provide humane care and shelter for stray or owner-relinquished animals.

“Shelter Superintendent or designee” means the Shelter Manager of Evansville Animal Care and Control.

“State” means the State of Indiana.

“Stray” means any animal that is not within the real property limits of its owner and is not under restraint or is unattended.

“Unclean” means dirty, soiled, filthy, unwashed, or muddied.

“Veterinarian” means any person licensed and accredited to practice veterinary medicine in the State of Indiana.

“Veterinary hospital” means any established, maintained and operated by a licensed veterinarian for the purpose of hospitalization of animals or the diagnosis and treatment of diseases and injuries of animals.

“Welfare” means well-being, happiness, health.

“Wild animal” means any animal not domestic or exotic animals, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

“Without reasonable provocation” means the exhibition of aggressive behavior without immediate direction to do so by its master, contrary to the direction of its master, while not defending its master, while not defending its master’s home on the master’s premises, or while not acting as a properly licensed crime prevention animal under EMC [6.05.030\(C\)](#). [1983 Code § 9.90.02.]

#### **6.05.030 Licenses and permits.**

##### **(A) Licenses.**

(1) General Provisions. Licenses shall only be issued to persons 18 or more years of age under the conditions of issuance hereunder. Persons requesting a license shall provide the following information:

(a) Name of the applicant who must be one of the owners of the animal;

- (b) Names of all owners of the animal with their address and telephone number of their residence, and phone number at their place of employment;
- (c) Name, age, type, breed, general description and sex of the animal and the permanent location (where it will be kept) of the animal;
- (d) In the case of a dog or cat, whether the animal has been spayed or neutered and the identification number of a microchip implanted in the animal, if any; and
- (e) In the case of a dog, cat or ferret, proof of current vaccination by written instrument showing the date of vaccination, a description of the animal and the type of vaccine administered and the veterinarian administering the vaccine.

The license shall be issued upon providing the information outlined above and payment of any fee as provided hereinafter. The application for issuance of a license shall be submitted to the animal shelter or an authorized facility.

(2) Requirements. The custodian of any animal which is required to have a license or permit and which is over six months of age shall obtain a license or permit to possess the animal. The purpose for such licensing of a dog or cat over six months of age is for identification and enforcement of required rabies vaccination. Owners of large animals, poultry, pigeons, doves, rabbits, and extraordinary animals shall obtain a license or permit for such animal as provided in this chapter. See exemption in subsection (A)(8)(b) of this section for large animals under certain conditions.

(3) Issuance. Animal Care and Control may issue licenses for dogs, cats or ferrets without the approval of the commission. All other licenses required hereunder shall be submitted to the commission for review and approval, approval with conditions, or denial. The commission is hereby authorized to enter into agreements with persons providing animal care, selling animals or providing services relating to animals for the provision of the services to be provided hereunder for the issuance of licenses for dogs, cats and ferrets. The license applications and fees shall be submitted to Animal Care and Control for review and approval. Such persons shall include, but not be limited to, veterinarians, humane societies, animal dealers and kennels. The terms and conditions of the agreements shall be determined by the commission and may include provisions providing reasonable financial compensation to such persons for providing the services contracted hereunder subject to City Council appropriation. Such financial compensation shall be by means of an additional service charge to the applicant in an amount not to exceed \$7.50 per license in addition to the fee charged in subsection (A)(8) of this section. It will be the responsibility of those entities issuing the licenses and collecting the money to turn both in to the City Controller as often as determined by the City Controller. It will be the responsibility of Animal Care and Control to verify that all licensed dogs, cats, and ferrets are vaccinated for rabies.

(4) Application. Applications for a license must be made within 30 days from the date a custodian becomes a resident of the City or lives in the City for any period greater than 30 days.

(5) Information. Withholding information or knowingly making a false statement on the application forms shall be a violation of this chapter and be cause to revoke or not issue a license or permit.

(6) Expiration. All licenses shall be valid for one year from date of issuance and shall expire at midnight one year from such date of issuance, with the exception of approval of a lifetime license.

(7) Display. All dogs and cats must wear identification tags including City and rabies tag when not in their primary enclosure. It is strongly encouraged to place the owner's name and microchipping tag number on collar as well.

(8) Fees.

(a) The following fees shall be charged for the issuance of a license:

	<b>Animal</b>	<b>Fee</b>
(i)	Service animals and guide dogs (registration required but no fee)	Free
(ii)	Owner 65 years of age or older and dog or cat spayed/neutered and microchipped, or if the animal cannot be spayed or neutered due to the health of the animal and microchipped (registration still required)	Free
(iii)	Neutered/spayed and microchipped dog or cat	\$10.00 per lifetime of the animal or \$3.00 annually
(iv)	Neutered/spayed dog or cat but not microchipped	\$10.00 annually
(v)	Male or female dog or cat; not neutered/spayed, and not microchipped	\$30.00 annually
(vi)	Microchipped dog or cat; not neutered/spayed	\$20.00 annually
(vii)	Poultry, pigeons, doves, and rabbits per premises	\$5.00 per premises annually
(viii)	Extraordinary animals	\$25.00 initially per premises, \$5.00 per premises annual renewal
(ix)	Ferrets	\$3.00 annually

- Upon a written statement from a licensed veterinarian setting forth that the neutering of the animal shall constitute a threat to the health of that animal, it shall not be required that the animal be spayed or neutered, but the animal shall be classified as an altered animal for purposes of license registration and fees. Registration at the altered tag price under this section will constitute agreement not to breed the animal. Breeding the animal in violation of this provision will result in a fine of \$100.00 per birth of the litter.
- A person who obtains a permit under subsection (A)(8)(b) of this section shall not be required to obtain individual licenses for animals above.

(b) Notwithstanding the above, an owner of an animal that is altered and microchipped may purchase a license that is valid and in effect for the life of the animal for the sum of \$10.00. An owner who is 65 years of age or older at the time of application for the licensing of an altered and microchipped animal shall pay the reduced fee of \$0.00; provided, however, that if the animal of any such person has not been spayed or neutered, the person who is 65 or more years of age shall pay the same permit fee and be subject to the above pet registration fees and charges as otherwise required for any animal. Such license shall also be valid and in effect for the lifetime of the animal and is not transferable.

(9) Duplicate. A duplicate license may be obtained for a fee of \$2.00.

(10) Exemptions. Animals owned and kept by an establishment for which a permit has been issued under this chapter need not be licensed except for an animal assemblage permittee. Large animals shall not be required to be licensed as long as the custodian thereof uses the animals for farm purposes and resides in an area which was outside the corporate City limits as of the effective date of the ordinance codified in this chapter or on property that is zoned "agricultural."

(11) The following individual animals may be maintained without a license, pursuant to subsection (A)(1) of this section. Nothing contained herein, however, shall be construed to allow an establishment to maintain such animals without a permit; however, breeders will fall under the requirements for breeders:

(a) Mammals.

- (i) Hamsters;
- (ii) Mice;
- (iii) Rats;
- (iv) Gerbils;
- (v) Guinea pigs;
- (vi) Chinchillas;
- (vii) Degus;
- (viii) Duprasi;
- (ix) Sugar gliders;
- (x) Hedgehogs.

(b) Birds.

(i) Psittaciforms.

- A. Budgerigars;
- B. Cockatiels;
- C. Lovebirds;
- D. Parakeets;
- E. Conures;
- F. Caique parrots;
- G. Pionus parrots;
- H. Amazon parrots;
- I. African Grey parrots;
- J. Eclectus parrots;
- K. Macaws;
- L. Cockatoos;
- M. Lories and lorikeets.

(ii) Passeriformes.

- A. Canaries;
- B. Australian finches;
- C. Mynahs.

(iii) Piciformes.

- A. Toucans;

B. Toucanets.

(c) Reptiles and Amphibians.

- (i) Nonpoisonous snakes;
- (ii) Nonpoisonous lizards;
- (iii) Turtles and tortoises;
- (iv) Salamanders;
- (v) Nonpoisonous frogs and toads.

(d) Fish. All small tank fish, including but not limited to tropical fish, goldfish, and native fish.

(e) Invertebrates.

- (i) All harmless invertebrates native to Indiana;
- (ii) Harmless nonactive invertebrates, including but not limited to land crabs and aquarium invertebrates.

Breeders of these animals shall meet the requirements for breeders.

Owners of the above-referenced animals are advised to check State rules and regulations for additional requirements.

(12) Any person owning any dog or cat which has been implanted with a microchip shall transfer the microchip documentation with the Animal Care and Control registry upon sale, trade, barter, gift or transfer of an animal. Any animal received by Evansville Animal Care and Control with an untraceable tag or microchip due to an owner's failure to keep contact information current with Animal Control or the veterinarian will be held seven business days prior to disposition.

(13) Transferal. Licenses are not transferable between animals or owners.

(B) Permits. Permits shall be issued only on approval of the commission following compliance with the requirements of said permit requirement.

(1) Permits for Animal Establishments.

(a) Requirements. No person shall create or maintain an animal establishment without a permit. Permits shall only be issued upon approval by the commission, upon recommendation of the Animal Control Superintendent for compliance with this chapter. The ACO shall inspect for compliance with this chapter.

(b) Display. Permits shall be displayed in a prominent location at the establishment and expire as of midnight December 31st of each year. Application for renewal or new permits must be made at least 30 days prior to the end of the year in case of renewal, or 30 days prior to the commencement of operations in case of a new permit.

(c) Transfer. Animal establishment permits are not transferable.

(d) Inspection. The Animal Control Officer, the Director of Mesker Park Zoo, or the Humane Officer shall have the authority to inspect all animals and premises at animal establishments annually and/or at any reasonable time at the direction of the commission with the consent of the owner or person in control of the premises or upon approval of a court of law by the issuance of an administrative search warrant or other court order.

(e) The applicant or permit holder shall not offer a puppy or kitten under the age of eight weeks for sale, trade, or other compensation or for free giveaway except a puppy or kitten or litters of them taken to Animal Care and Control or any 501(c)(3) humane adoption agency.

(f) If the applicant for a permit or renewal thereof shall have two or more violations of this chapter within the previous 12-month period, said permit shall not be granted.

(g) No puppy or kitten under the age of eight weeks may be offered for sale, trade or other compensation or for free giveaway except a puppy or kitten, or litter or litters taken to Animal Care and Control or any 501(c)(3) humane adoption agency.

## (2) Permit for Crime Prevention Animals.

(a) Approval. A crime prevention animal permit shall be obtained by the custodian only upon approval of the commission upon recommendation of the Animal Control Superintendent for compliance with this chapter.

The permits will only be approved when the custodian can show a reasonable necessity for the maintenance of such an animal and when the animal will not be maintained in a predominantly residential neighborhood.

(b) Fees. All governmental units are exempt from the fees set forth in subsection (A)(8) of this section.

(c) Warning Signs. On the premises where a crime prevention animal is used, signs shall be conspicuously posted at each door or gate of the premises accessible to the animal with the following warning: "Warning: A Crime Prevention Animal Is Guarding This Property. For further information call (telephone number of a person able to control the animal)." If the area in which the animals are kept exceeds 5,000 square feet, there shall be at least one sign posted on each 100 linear feet of enclosure surrounding the premises.

(d) Restraint. Crime prevention animals must always be under adequate restraint, maintained within a proper enclosure from which they cannot escape, and there must always be a person who can control the animal on the premises or available by telephone at the number on the warning sign. If the commission determines that the restraint or control is not adequate, the permit may be revoked.

(e) Insurance. Any custodian seeking to obtain a permit to keep a crime prevention animal must submit with his application therefor proof of liability insurance in an amount to be established by rule or regulation of the commission with a minimum of \$500,000 coverage for the death or injury to any one person.

## (3) Permit for Animal Assemblage (Dogs and/or Cats Only).

(a) This subsection (B)(3) applies only to altered animals as all others will be under the classification of breeders or kennels or catteries. No person shall be the custodian of an animal assemblage without obtaining a permit therefor from the commission as provided hereafter. Such animal assemblage permit shall be issued so long as the applicant is able to comply and does comply with the provisions of this chapter and applicable State law governing the care and control of animals. A permit issued pursuant to this section may be revoked, after notice and hearing, by the commission for failure to abide by the terms of this chapter or applicable State law governing the care and control of animals. An inspection by the ACO shall be required for compliance with this chapter before the permit may be issued.

(b) No animal assemblage permit shall be required from any animal establishment issued an animal establishment permit pursuant to this chapter.

(c) The fee listed in subsection (B)(11) of this section shall be paid before a permit is issued and shall not be refunded if the permit is revoked and shall not be prorated or reduced for unused or prior portions of a year. Only one animal assemblage permit shall be required for each lot.

(d) The animal assemblage permit shall be effective on the date of approval by the commission and shall expire on December 31st of that same year unless revoked by the commission after notice and hearing as provided herein. A new application and permit fee shall be required for each year.

(e) A person who has a valid animal establishment permit issued hereunder shall not be required to obtain an animal assemblage permit for the same premises.

(f) Persons obtaining the permit required for an animal assemblage shall be required to obtain individual licenses for the animals covered under the animal assemblage permit.

(g) Applicants for a permit, or any renewal thereof, shall show proof that the animals covered by the permit have been examined by a licensed veterinarian within the previous 12 months.

(h) If the applicant for a permit, or a renewal thereof, shall have two or more violations of this chapter within the previous 12-month period, said permit shall not be granted.

#### (4) Kennel/Cattery Permits.

(a) Any person boarding or harboring dogs or cats over the age of five months for compensation shall obtain a kennel/cattery permit prior to undertaking such activity.

(b) Fees for such permit shall be charged according to subsection (B)(11) of this section.

(c) The premises shall be properly zoned and meet the requirements of this chapter.

#### (5) Major Breeder Permits.

(a) A major breeder permit shall be required of:

(i) Any person who intentionally or accidentally causes the breeding of more than one female cat or more than one female dog or makes more than one cat or dog available for breeding purposes in a 12-month period; or

(ii) Any person who offers for sale, sells, trades, receives other compensation or gives away any more than one litter of dogs or cats in a 12-month period, excepting a litter of dogs or cats taken to Animal Care and Control or any approved 501(c)(3) humane adoption agency, and who has the female altered within 10 weeks of the birth of the litter; or

(iii) Any owner or person having custody of a domestic animal that has delivered a litter or caused the delivery of a litter, who chooses not to relinquish the animal to Animal Care and Control or any 501(c)(3) humane adoption agency.

(b) Requirements. The permittee or applicant shall:

(i) Not allow the birthing of more than one litter per female in a 12-month period; and

(ii) Furnish Animal Care and Control with information on the birth of each litter of dogs or cats as may be required by Animal Care and Control to register that litter of dogs or cats with Animal Care and Control or any 501(c)(3) humane adoption agency approved by the Animal Control Agency and to assign a litter number for each litter; and

(iii) Transmit to the new owner the breeder's permit number in order that the new owner has assurance and proof that the animal was legally bred; and

(iv) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except animals taken to Animal Care and Control or any approved 501(c)(3) humane adoption agency approved by the Animal Control Agency) against common diseases; in the case of dogs, against canine distemper, adenovirus parainfluenza, parvovirus, and in case of cats, against feline rhinotracheitis, and panleucopenia. All such animals shall be vaccinated for rabies as required by State law.

(v) Furnish a recommendation to have the animal examined by a licensed veterinarian.

(vi) All breeding pairs shall be examined by a licensed veterinarian at least annually.

(c) The Animal Control Officer or Health Department may restrict the sale of any animal suspected of having a communicable disease endangering the health of another animal or person. An examination by a licensed veterinarian may be requested at the expense of the enforcement agency. If the permittee shall fail to have such examination done, the permit may be revoked following notice and hearing before the commission.

The permit holder shall reimburse the enforcing agency's veterinary fees if the inspection by the veterinarian concludes the animal to have a communicable disease endangering the health of another animal or person. The inspection is to be made by a veterinarian within 24 hours of the enforcing agency's determination that the animal has a communicable disease endangering the health of another animal or a person.

(d) If the applicant for a permit, or renewal thereof, shall have two or more violations of this chapter within the previous 12-month period, said permit shall not be granted.

(e) Applicants for a permit, or any renewal thereof, shall show proof that the animals covered by the permit have been examined by a licensed veterinarian within the previous 12 months.

#### (6) Minor Breeder's Permit.

(a) A minor breeder's permit shall be required of:

(i) Any person who intentionally or accidentally causes the breeding of a female cat or female dog or makes a female cat or female dog available for breeding purposes; and

(ii) Any owner or person having custody of a domestic animal that has delivered a litter or caused the delivery of a litter, who chooses not to relinquish the animal to Animal Care and Control or any 501(c)(3) humane adoption agency.

(b) A minor breeder's permittee shall:

(i) Be allowed to breed only one dog or one cat which results in the birthing of a maximum of one litter in a 12-month period in his or any other domestic household or establishment or any combination thereof; and

(ii) Not be allowed to offer for sale, sell, trade, receive other compensation or give away more than one litter of dogs or one litter of cats in a 12-month period, excepting a litter of dogs or cats taken to Animal Care and Control or any 501(c)(3) humane adoption agency, and have the female altered within 10 weeks of the birth of a litter; and

(iii) Furnish Animal Care and Control with information on the birth of each litter of dogs or cats as may be required by Animal Care and Control to register that litter of dogs or cats with Animal Care and Control and to assign a litter number for each litter; and

(iv) Transmit to the new owner or buyer the litter number of the animal acquired, and the minor breeder's permit number in order that the new owner has assurance and proof that the animal was legally bred; and

(v) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to Animal Care and Control or any 501(c)(3) humane adoption agency) against common disease; in the case of dogs, against canine distemper, adenovirus parainfluenza, parvovirus, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and

(vi) Not offer a puppy or kitten under the age of eight weeks for sale, trade, other compensation or free giveaway (except a puppy or kitten or litters of them taken to Animal Care and Control or any 501(c)(3) humane adoption agency) and have the female altered within 10 weeks of the birth of a litter; and

(vii) Have all animals vaccinated for rabies as required by State law; and

(viii) Furnish a recommendation to have the animal examined by a licensed veterinarian for each animal sold; and

(ix) Have proof that all breeding pairs have been examined by a licensed veterinarian within the previous 12-month period.

(c) Any owner or person having custody of a domestic animal which has been neutered within 10 weeks after giving birth to a litter, or who turns the adult domestic animal over to Animal Care and Control or any 501(c)(3) humane adoption agency within 10 weeks from the birth date of the litter, will not be required to purchase a minor breeder's permit.

(d) Any owner or person having custody of a domestic animal which has delivered a litter, who chooses not to relinquish said animal to Animal Care and Control or any 501(c)(3) humane adoption agency, will be required to purchase a minor breeder's permit for \$40.00 plus any applicable kennel/cattery permit fee. The permit shall be issued provided all requirements of this chapter are met.

(e) The Animal Control Officer or Health Department may restrict the sale of any animal suspected of having a communicable disease endangering the health of another animal or person. An examination by a licensed veterinarian may be requested at the expense of the enforcement agency. The permit holder shall reimburse the enforcing agency's veterinary fees if the examination by the veterinarian concludes the animal to have a communicable disease endangering the health of another animal or person. The examination is to be made by a veterinarian within 24 hours of the enforcing agency's determination that the animal has a communicable disease endangering the health of another animal or person.

(f) If the applicant for a permit, or renewal thereof, shall have two or more violations of this chapter within the previous 12-month period, said permit shall not be granted.

(g) Applicants for a permit, or any renewal thereof, shall show proof that the animals covered by the permit have been examined by a licensed veterinarian within the previous 12 months.

(7) Veterinary Hospitals/Clinics. Veterinarians who engage in boarding, grooming or other business in addition to the treatment and/or medical care of animals shall obtain a permit as herein provided for such boarding, grooming or other business. This chapter shall in no way regulate the occupation of a veterinarian licensed by the State of Indiana.

(8) Grooming Shop Permit.

(a) Any person who has a grooming shop as defined in this chapter shall obtain a grooming shop permit prior to undertaking such activity.

(b) A permit holder has the right to request that any domestic animal accepted for grooming be vaccinated against common diseases, and require that proof of such vaccinations be furnished to the shop operator.

(9) Exhibition Permit. An exhibition permit is required before any performance is begun. Permits are issued per event, which is one or more shows on contiguous days at a location. Applicants shall furnish a list of locations of performances listing dates and times of shows and where the animals are located if different from performance site. Applicants shall permit an inspection for compliance with this chapter prior to issuance. Upon probable cause to believe that the owner is not in compliance with this chapter, the premises where the animal is stored or performing shall be inspected by the ACO. If the owner refuses to allow an inspection, the ACO shall obtain an administrative search warrant prior to inspection of the premises.

(10) Large Animal Permit.

(a) No person shall possess or maintain a large animal without obtaining a large animal permit. Permits shall only be issued by the commission upon the recommendation of the Superintendent or his designee for compliance with this chapter.

(b) The owner shall send a notice that the issuance of a large animal permit will be considered by the commission with the date, time and location of the meeting (at owner's expense) to all adjacent property owners by certified mail 10 days prior to the meetings. There will be a minimum of two commissioner's meetings to review the application.

(c) Prior to approval, there shall be an on-site inspection by the ACO for compliance with the provisions of this chapter.

(d) A large animal permit may only be granted for property that is zoned "agricultural" or upon which that specific large animal was located at the time of adoption of the ordinance codified in this chapter. A different large animal may not be placed on the property unless the property is zoned "agricultural."

(e) No permit shall be granted or renewed unless the premises meet the requirements of this chapter.

(11) Fees for Permits. The following fees shall be charged per premises annually (unless otherwise indicated) for the permits listed above:

Animal establishment permit	\$125.00 per premises
Crime prevention animal permit	Annual license fee provided in subsection (A)(8) of this section plus \$50.00 per premises
Animal assemblage permit	\$100.00 plus the license fee per animal
Kennel/cattery permit	
1 – 6 dogs or cats	\$25.00
7 – 15 dogs or cats	\$50.00
16 – 25 dogs or cats	\$75.00
26 or more dogs or cats	\$100.00
Major breeder permit	\$100.00
Minor breeder permit	\$40.00

Grooming shop permit	\$50.00
Exhibition permit	\$100.00 per event; no charge if the event is put on by a not-for-profit organization
Large animal permit	\$25.00 per premises initial permit and \$10.00 annually for renewal

- Each animal owned by the permit holder will be individually licensed with the City; animals owned by clients of a boarding business will be licensed by the permit holder's client.

(12) Approval of Permits. All permits will be issued after inspection approved by Animal Care and Control, provided all requirements of this chapter are met.

(13) Appeal – Denial or Revocation of Permit.

(a) Any person who is denied a permit or whose permit is revoked may appeal the denial or revocation to the Superintendent within 30 days of the date of the denial or revocation of the permit by the Superintendent.

(b) All requests for appeals must be in writing and addressed to the Superintendent; whereupon, the Superintendent shall set the appeal for hearing before the commission within 30 days of the receipt of the written request.

(c) Revocation. For violation of this chapter, the commission is empowered to revoke any license or permit upon a hearing held subsequent to 10 days' notice by certified mail to the address of the licensee or permit holder. The hearing shall be subject to rules and regulations promulgated by the commission. Any person whose permit or license is revoked shall comply with the order of the commission to remove the subject animal or animals from the City, dispose of the subject animal or animals, or deliver the subject animal or animals to Animal Care and Control for disposal, though only dangerous animals, or animals which have been determined by the Health Department to present an immediate threat of transmitting a disease to a human by testing positive for a transmittal disease, may be ordered destroyed. No portion of the permit or license fee shall be refunded.

(14) Inspections and General Provisions for Permits.

(a) Inspections of the premises occupied by the animals at a particular location shall be conducted as follows:

(i) An Inspector designated by the commission shall inspect that portion of the premises to be occupied by the animals as shown on the application for the permit.

(ii) The purpose of the inspection shall be to determine compliance with this chapter and applicable State law governing the care and control of animals.

(iii) If a time cannot be agreed upon, a notice of the inspection shall be given by depositing the notice in the United States mail with postage prepaid, or by delivering notice to the address listed in the application at least 48 hours prior to the time set for the inspection. No inspection shall be conducted without the permission of the owner of the premises or other person in control of the premises. If permission is reasonably denied, the permit shall not be issued and the person responsible for any activity requiring a permit may be issued a citation for noncompliance with this chapter.

(b) The commission may issue an order for the re-inspection of the premises upon a finding of probable cause that a violation exists. The re-inspection shall be limited to matters and areas relevant to the alleged violations. The order and re-inspection shall not be construed to be a procedural precedent to writing a citation, pursuing court action for suspected violations,

or for conducting an investigation from public property or from private property with the consent of the owner of the private property. If the commission has probable cause to believe that a violation exists on the premises and the owner or person in control of the property refuses to allow an inspection, the Superintendent shall obtain an administrative search warrant or other court order prior to entering the property.

(i) Court action shall be within the authority of the commission and City at any time.

(ii) Before an Inspector may enter the premises of the permittee for the purposes of re-inspection, notice shall be given of such re-inspection by depositing the notice in the United States mail with postage prepaid, or by delivering notice to the address listed in the application, at least 48 hours prior to the time set for the re-inspection.

(c) All inspections requiring entry on the property of an applicant or permittee shall be conducted between the hours of 9:00 a.m. and 4:00 p.m. during weekdays and after notice as provided herein. No permit shall be issued until the inspection provided herein is allowed. Such inspection shall be limited to applicable areas and to determine compliance with requirements of this chapter. Refusal to allow an Inspector to enter the premises for purpose of re-inspection, under the guidelines found herein, shall be grounds to revoke a permit.

(d) On the application for a permit, the applicant shall designate that the animals shall occupy all of the premises or the permittee shall designate that portion of the premises to which the animals shall be restricted. It shall be a violation of this chapter to allow the animals to occupy portions of the premises other than those designated on the application.

(15) Exemptions. This subsection (B) shall not apply to any governmental entity, not-for-profit corporation organized under the laws of the State for the prevention of cruelty to animals, or State-licensed veterinarians. [1983 Code § 9.90.03.]

#### **6.05.040 Prohibited acts.**

(A) No person shall do the following prohibited acts:

(1) Be a custodian of a prohibited animal as identified in EMC [6.05.050](#).

(2) Be a custodian of, or permit, an animal nuisance, except running at large or not under restraint (see subsection (A)(4) of this section).

(3) Be a custodian of a dangerous animal; however, the exemptions provided under EMC [6.05.030](#)(C) shall also be applicable to this provision.

(4) Be a custodian of a dog that is running at large or not under restraint.

(5) Confine an animal in an area which is unclean, overcrowded, or inadequately ventilated, which poses a substantial threat to any person or animal.

(6) Deprive an animal from the opportunity for adequate exercise or access to fresh or ventilated air, or maintain a large animal in a primary enclosure (including corral) of less than 10,000 square feet per animal. The front yard of the lot shall not be used as part of the primary enclosure or be counted as part of the 10,000 square feet per animal. A different large animal or additional large animal may not be kept or maintained on the premises unless the requirements of this municipal code, including but not limited to the requirement for "agricultural" zoning, are met in all respects. If a large animal is in compliance with the previous code provisions on the date of adoption of the changes herein, the large animal may remain so long as the previous code is complied with in all respects; however, if the large animal is not in compliance with the previous code provisions on the date of adoption of this chapter, then the large animal and the premises shall comply with the provisions of this chapter, including, but not limited to, the requirement that the land be zoned "agricultural."

- (7)(a) Be a custodian of an animal that has not been properly licensed pursuant to this chapter; or
- (b) Be a custodian of any animal that has not been vaccinated with a rabies vaccine approved by the State Board of Health if the animal is capable of carrying or transmitting rabies. (See IC 15-2.1-6-13 for local regulation authority.)
- (8) Abandon an animal.
- (9) Sell live chickens or ducklings younger than eight weeks of age in quantities of less than 25 to a single purchaser. This subsection (A)(9) shall not apply to 501(c)(3) organizations promoting education, agriculture or scouting activities or governmental organizations.
- (10) Give away any live reptile, bird, or mammal as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement, or offer such a vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (11) Be the custodian of an animal and fail to provide the animal with sufficient, good, and wholesome food and water, proper shelter for protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.
- (12) Expose any known poisonous substance, whether or not mixed with food, so that such poisonous substance shall be liable to be eaten by a pet.
- (13) Leave an animal unattended in a vehicle when conditions in that vehicle would constitute a health hazard to the animal.
- (14) Fail to confine in a secure building or enclosure a female domestic animal in heat so as to prevent conception except during instances of planned breeding.
- (15) Unsupervised tethering of an animal except as permitted herein. (See subsection (B) of this section and EMC [6.05.060](#).)
- (16) No person shall fail to maintain in a sanitary manner the premises occupied by an animal, whether the animal is kept in a structure, fence, pen, or fastened, hitched, or leashed. Custodians of an animal shall regularly, and as often as necessary, maintain all animal areas or areas of animal contact to prevent unsanitary conditions on the property and to prevent odor from escaping from the property of the custodian.
- (17) Methods.
- (a) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause physical injury or suffering to the animal. This provision shall not prevent the use of a collar with an electrical charge to prevent escape from a yard or enclosure; however, such electrical collar shall not be the primary form of restraint. Physical restraint shall be provided as required in this chapter.
- (b) No person employed to train an animal shall use alpha-rollovers, helicoptering, hanging by the collar, kicking or any other abusive methods.
- (18) No person shall keep or maintain any coop in which chickens, ducks, pigeons, turkeys or other domestic fowl and poultry are kept within a distance of less than 50 feet from any neighbor's dwelling; and no person shall keep or maintain pigeons in violation of guidelines set forth in the American Racing Pigeon Association handbook, a copy of which shall be on file with the City Clerk. Those maintaining a current membership with this club will be subject to normal periodic

inspections, as provided in this chapter, by Animal Care and Control, as well as if there are any complaints.

No more than six chickens, ducks, turkeys or other domestic fowl, or combination thereof, shall be maintained at any one parcel of property. In calculating the number of chickens, ducks or other domestic fowl, only animals over eight weeks of age shall be counted.

(19) No person shall permit, provide a location for, or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(a) No person shall permit or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(b) No person shall possess animal fighting paraphernalia and a dog, cock, fowl, or bird bearing a scar, wound or injury consistent with animal fighting.

(c) No person shall attend an animal fighting contest.

(d) No person shall sell, purchase, own, harbor, give away, barter, breed, or possess any animal for animal fighting.

(e) No person shall permit anyone to use any building, shed, room, yard, ground, premises, vehicle or property, whether enclosed or not, for the purpose of animal fighting.

(f) No person shall aid, abet, assist, act as judge or referee, bet or wager money or other valuable consideration on the outcome of, be at, attend, or in any way engage in the furtherance of, an exhibition of animal fighting.

(g) If the actions prohibited in this subsection (A)(19) constitute a criminal violation, the criminal violation shall be pursued instead of an ordinance violation.

(20) No person or group of persons or any for-profit or not-for-profit organization, whether for pay or other compensation or for free promotional purpose, shall conduct or allow any event involving physical contact contests between animals or persons using animals in any form or manner except those events reviewed and approved for the safety, well-being, and comfort of the animals involved by Animal Care and Control.

(21) No person shall set any type of poisonous substance or bait within the City limits that is harmful to any pet, which is contrary to the instructions set forth on the manufacturer's instructions; provided, however, that controlled programs under the direction of the County Board of Health or a licensed extermination service are excluded.

(22) Sale of Underage Animals. No puppy or kitten that is under the age of eight weeks may be offered for sale, trade or for other compensation or for free giveaway except a puppy or kitten or litters may be taken to the animal control shelter or any 501(c)(3) humane adoption agency. This subsection (A)(22) shall not apply to Animal Care and Control, any 501(c)(3) humane adoption agency, 501(c)(3) organization promoting education, agriculture or scouting activities or governmental organizations.

(23) Traps.

(a) No person shall use, place, set or cause to be set within the City, or upon lands owned by the City, any traps except cage-type live traps approved by Animal Care and Control and used for the control of nuisance animals. This shall not apply to any trap specifically designed to kill rats, mice, gophers, groundhogs, muskrats or moles so long as the owner of the real estate is aware of the location where the trap(s) are set and monitors said trap(s) at least once every 24 hours.

(b) Traps discovered by Animal Care and Control to have been unlawfully set in the City may be seized and used as prima facie evidence that a violation has been committed. Upon a determination that said traps are set in violation of this chapter, said trap(s) shall be forfeited to and disposed of by Animal Care and Control.

(24) No person shall fail to obey the provisions of this chapter or any restrictions, regulations, or orders issued by the commission pursuant to the terms of this chapter.

(25) No person shall release piranha into any stream, river or lake.

(B) Transporting Animals. Any animal transported in the open bed of a truck shall be tethered by a halter, and not by the neck, to the two sides of the front corners of the bed of the vehicle while the vehicle is in motion or placed in a safe contained travel carrier so as to prevent injury or danger to the animal. Tethering devices shall not be longer than three-fourths of the width of the bed of the truck.

(C) Lost or Stray Animals.

(1) Persons finding a stray animal shall notify Animal Care and Control within 48 hours of finding the animal. Animal Care and Control shall inspect or scan the animal to determine ownership. Animal Care and Control shall return the animal to its rightful owner.

(2) Any found animal shall be held for a minimum seven days before a disposition is made, unless the animal needs to be euthanized for humanitarian purposes upon the decision of a veterinarian (if available) or the Superintendent or the Superintendent's designee due to the animal's mental or physical condition to prevent suffering.

(3) Persons finding an animal are obligated to comply with all rules and regulations of this chapter pertaining to humane care and treatment of animals while said animal is in their custody awaiting return of the animal to its actual owner. After seven days, the finder may keep the animal if he obtains the necessary permits or licenses required by this chapter or upon a determination by a court of law if ownership is contested. Persons who retain the animal accept the responsibilities as a custodian of the animal.

(D) Injury Caused by Motor Vehicle to Animals. Any person operating a motor vehicle who knowingly causes injury or death to a domestic animal shall immediately notify the owner, Animal Care and Control or local authorities of the location of the animal (dial 911). [1983 Code § 9.90.04.]

#### **6.05.050 Controlled animals.**

Maintenance of all controlled animals, as defined in EMC [6.05.020](#), is prohibited except by special application to the commission and its approval thereof. No wild or exotic animal shall be kept within the City without the necessary State and/or Federal permits. [1983 Code § 9.90.05.]

#### **6.05.060 Requirements for custodians of animals.**

Any person having custody of an animal, as owner or otherwise, shall provide such animal with necessary and adequate care, food, drink, space, shelter, and protection from the elements, as set forth below:

(A) Food. The food shall be given daily and be wholesome, palatable, and free of contamination. Food shall be of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.

(B) Water. Potable water is to be accessible to animals at all times; it shall be maintained at least two times per day, except as otherwise might be directed by a veterinarian. Water receptacles shall be kept clean and sanitary so as not to be a health hazard to the animal.

(C) Housing Facilities. "Housing facility" means any structure, building or housing intended to house animals.

(1) Shelter from Sunlight. When sunlight is likely to cause overheating, serious bodily injury or death of the animal, sufficient shade shall be provided to allow the vertebrate animals kept outdoors to protect themselves from the direct rays of the sun. No person shall confine or allow his or her animal to remain outdoors without access to appropriate shelter from the elements.

(2) Shelter from Rain or Snow. Domestic animals shall be provided with access to housing facilities to allow them to remain dry during rain or snow.

(3) Shelter from Cold Weather. Housing facilities shall be provided for all domestic animals kept outdoors when the atmospheric temperature falls below 40 degrees Fahrenheit. Such structure shall be provided with a sufficient quantity of suitable bedding material, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Such shelter shall be so constructed to keep the animal dry and retain sufficient body heat to prevent serious bodily injury or death of the animal.

(D) Primary Enclosures. All gates and doors to the exterior of the primary enclosure shall have tumbler-type locks. Such locks shall mean a key or combination-type lock.

(1) All primary enclosures for domestic animals shall conform to the following requirements: Primary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury and to contain them. Primary enclosures shall be constructed and maintained so as to enable the domestic animal to have access to a housing facility in order to remain dry and clean.

(2) Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to move about freely and to easily stand, sit and lie in a comfortable normal position.

In addition to the provisions of the preceding subsections, each dog or cat housed in any primary enclosures shall be provided a minimum of 40 square feet of floor space for an animal 10 pounds or less; for each additional 10 pounds an additional 10 square feet shall be added to the total enclosure. This paragraph shall not apply to animal dealers, kennels or veterinarians unless the animal is kept on the premises for three or more months.

(3) No dog or cat shall have a tether as its primary security device or as its primary enclosure. The supervised temporary tethering of a dog or cat is permitted for no longer than one hour at a time. If temporary tethers are used as a restraint, the tethers used shall be so placed or attached that they cannot become entangled with the tethering of other animals or any other objects. Such tethering shall be of a type commonly used for the size dog or cat by means of a well-fitted collar. No animal shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied, hitched, or fastened to restrain them must wear a properly fitted collar or harness. The tying device shall be attached to the animal's collar or harness. Such chain, rope, or cord shall be at least 10 feet long and have swivels at both ends. Animals may be tethered to a cable run only with the custodian present in the same yard with the animal. Any tether must have swivels on both ends. The tether must be attached to a properly fitting collar or harness.

(4) Not more than six adult cats (over eight weeks of age) shall be housed in the same primary enclosure. This subsection shall not apply to animal dealers, kennels or veterinarians unless the animal is kept on the premises for three or more months. See subsection (D)(2) of this section for minimum requirements for primary enclosures.

(5) Every female domestic animal in heat shall be confined in a secure building or proper enclosure so as to prevent conception except during instances of planned breeding.

(6) Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the domestic animals contained therein and to reduce disease, hazards, and odors. Excreta must be placed in a sealed container and properly disposed of in a waste receptacle.

(E) No person shall torture, beat, mutilate, overload, overwork, cruelly treat or otherwise abuse any animal so as to result in serious bodily injury or death of the animal. It shall be a defense to this subsection that the actions taken by a person accused of the violation were reasonably necessary to prevent injury to himself, another person, another animal or destruction or substantial damage to property.

If the actions prohibited above constitute a criminal violation, the criminal violation shall be pursued instead of an ordinance violation.

(F) An animal shall be leashed when it is off the owner's property. One end of the leash shall be attached to the collar or harness and the other end attached to the person accompanying the animal. This provision shall not apply to an animal that is otherwise physically restrained at any facility. [1983 Code § 9.90.06.]

#### **6.05.070 Vaccination required.**

No owner or custodian of any dog, cat or ferret shall keep, maintain, or harbor the animal within the City, unless the dog, cat or ferret has been vaccinated by a licensed veterinarian with antirabic vaccine of a type approved by the State Board of Health. The antirabic vaccination of a dog, cat or ferret shall be repeated every one to three years as applicable to the vaccine. In no case shall more than three years elapse between each vaccination. All dogs, cats and ferrets shall be vaccinated for rabies as required by State statute. A licensed veterinarian shall provide such vaccinations. [1983 Code § 9.90.10.]

#### **6.05.080 Reporting of animal bites.**

(A) The person responsible for any animal that has bitten a person or another animal must report the incident to the Health Department. Upon receiving the report of a bite, Animal Care and Control will quarantine the animal for 10 days with the place of confinement to be in the discretion of Animal Care and Control based upon whether the animal is vaccinated and whether the owner has the proper facilities to prevent the animal from escaping or coming into contact with other persons or animals. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or noncustodian. During the quarantine period, the owner must provide a current rabies vaccination certificate for his or her cat or dog that is being quarantined. If proof of vaccination cannot be supplied, a veterinarian shall vaccinate the animal before release at the owner's expense. Indiana law and Department of Health rules and regulations shall be followed for reporting animal bites.

(B) No person other than an Animal Care and Control Officer or veterinarian shall kill or cause to be killed any animal suspected of being rabid except in cases of immediate self-protection. If the animal is killed, the person causing the death will retain the body and immediately notify Animal Care and Control.

(C) Violation of these quarantine provisions shall constitute an offense and shall subject the responsible party to civil penalties under EMC [6.05.180](#). [1983 Code § 9.90.11.]

#### **6.05.090 Exposure – Proclamation by Mayor.**

If the Mayor determines that a danger to the City is posed by rabies, he may issue a proclamation ordering all custodians of animals capable of contracting rabies to muzzle the animals, confine them to the custodian's immediate premises, or both, for a time designated in the proclamation. Failure to comply with the proclamation is a violation of this chapter. Notice of the proclamation shall be effective upon posting the notice at the Civic Center and in the other council districts. The notice shall be advertised in each newspaper published in the City qualifying for legal ads under IC 5-3-1. [1983 Code § 9.90.12.]

**6.05.100 Disposal, release, or destruction of animals that have bitten.**

(A) No person owning, possessing, keeping, or harboring any animal within the City shall move, conceal, sell, give away, or otherwise dispose of any animal, when the person has knowledge of the animal's having bitten or injured a person or animal.

(B) No animal quarantined under suspicion of rabies shall be removed from Animal Care and Control or elsewhere or destroyed until written certification of the Health Officer, or his duly authorized deputy, or the ACO is submitted. The time period for quarantine and conditions of the quarantine shall be conducted under the rules and regulations and orders of the State Board of Health.

(C) No person other than a duly authorized agent of Animal Care and Control may destroy any domestic animal; provided, however, this provision shall not apply to the following:

(1) A licensed veterinarian;

(2) Those persons acting in immediate self-protection; or

(3) Law enforcement officers or firefighters acting to prevent undue suffering. [1983 Code § 9.90.13.]

**6.05.110 Animal Control and Education Commission.**

(A) The Animal Control and Education Commission is hereby established. It shall consist of seven members appointed by the Mayor with the advice and consent of the Common Council. Members are to serve for a term of four years. Members shall serve at the pleasure of the Mayor. No more than four commissioners may be members of the same political party. Commission officers shall be a chairperson, vice-chairperson, and secretary.

(B) Commissioners shall serve without remuneration, but shall receive reimbursement for expenses necessarily incurred in the performance of their duties. For a commissioner to receive reimbursement for expenses a claim must be submitted by the commissioner to the commission and approved by a majority of the members thereof and any claim so submitted shall be subject to the appropriation of funds by the Common Council.

(C) The Animal Control Officer shall be appointed by the Mayor and shall see to the proper administration of this chapter and the animal shelter in accordance with the rules, regulations and directives of the Animal Control and Education Commission and the Board of Public Works. The Animal Control Officer shall be sworn in as a special law enforcement officer under the direction and supervision of the Board of Public Works.

(D) The Humane Officer shall attend the meetings of the commission and carry out its directives to the extent he is allowed and empowered by State law.

(E) The commission shall approve or disapprove all applications for permits and licenses for animals based on the commission's determination as to whether the applicant has complied with this chapter and demonstrates a reasonable probability of continued compliance. The commission is empowered to revoke licenses and permits as provided in this chapter. Restrictions, regulations and orders necessary to carry out the intent of this chapter or any restrictions, rules or regulations adopted pursuant to this chapter may be issued by the commission; however, rules and regulations pertaining to the operation of the animal shelter must be approved by the Board of Public Works. The commission may from time to time prescribe rules and regulations pertaining to what constitutes unclean, overcrowded and inadequately ventilated confines of an animal; however, these rules and regulations may only be used to determine whether a permit should be issued or revoked and for no other purpose. Any restrictions, rules or regulations that may be adopted by the commission pursuant to this chapter must be reviewed and approved by the Common Council. Animal Care and Control has authority to issue licenses for ferrets, dogs and cats; however, a decision to disapprove any license or revoke any license may be

appealed to the commission which shall have final authority over such issuance, denial or revocation of any animal license.

(F) If the commission finds that the nature of a particular animal or the area in which it is kept may in any way endanger the public health, safety, or welfare, it may impose conditions on a license or permit and breach of those conditions shall be cause for revocation of the license and a violation of this chapter.

(G) The commission shall inspect the Animal Care and Control shelter at any time during business hours. Any findings are to be brought to the attention of the Director of Transportation and Services. [1983 Code § 9.90.20.]

#### **6.05.120 Animal Violations Bureau.**

(A) The Animal Violations Bureau is hereby established in the office of the City Clerk, who may appoint any of the Clerk's assistants to assist in the operation of the bureau. The Clerk shall provide space for the bureau. The bureau shall be open during the same hours as the office of the City Clerk.

(B) A person charged with a violation for which a fine may be imposed under this chapter may do the following.

(1) Prior to the filing of an action in court alleging an ordinance violation, the alleged violator may appear before the bureau and pay a fine as provided in this chapter.

(2) In the event an action has been filed in court, the bureau may accept from the alleged violator his representation that he will plead guilty in court to the charge. The bureau may then accept payment of a fine as established by the judge conditioned on the agreement of the alleged violator to pay all court costs associated with the violation of the ordinance charged in the County Clerk's office; provided the alleged violator shows proof that the animal has been inoculated and licensed according to the requirements of this chapter. Payment of the fine and agreement to pay all costs of court under this provision constitutes a plea of guilty to the alleged charge of violation of this chapter, and constitutes a waiver of appearance before the court.

(3) Appear in court, at a designated time to proceed in accordance with whatever requirements the court shall impose. The bureau shall issue receipts to violators for civil penalties paid to the bureau.

(C) Animal Care and Control shall receive animal complaints from citizens, and on the execution of an affidavit by any citizen complaining of an alleged violation of this chapter, or upon the issuance of a citation by an ACO or law enforcement officer alleging a violation of this chapter, the Superintendent shall cause a complaint to be filed in court alleging violation of a municipal ordinance so long as the attorney for the City determines there is sufficient evidence to support a finding by a court that a violation occurred. This provision shall not prevent the ACO or law enforcement officers from issuing verbal or written warnings of violations where such warnings shall be deemed sufficient to prevent further violations. [1983 Code § 9.90.21.]

#### **6.05.130 Animal Care and Control shelter.**

(A) The operation of the Animal Care and Control shelter is under the supervision of the Board of Public Works which shall adopt and enforce rules for the operation of the Animal Care and Control shelter as needed to carry out the intent of this chapter.

(B) The Animal Care and Control Officer shall cause the apprehension and impoundment of an animal which is not on the property of the owner so long as the animal is on public property, public right-of-way or on private property without the consent of the owner of the private property. Since the apprehension of the animal is reasonably necessary for the protection of the public health, safety, and welfare, the capture of the animals is a valid exercise of the City's law enforcement power. Therefore, the Animal Care and Control Officer and his designee may use any means reasonably calculated to capture the

animal in a manner which presents the least danger to other persons and property. The Animal Care and Control Officer may enter on private property without the consent of the owner or person in control of the property only under the following circumstances:

(1) With a court order or warrant authorizing entry onto the property for the purposes stated in the order or warrant; or

(2) Where exigent circumstances dictate immediate apprehension in order to prevent harm or danger to a person or animal, including, but not limited to, where an animal has bitten a person or animal and the animal is not under restraint.

(C) If any dangerous animal is not under restraint and cannot be captured safely and impounded, it may be slain by a law enforcement officer. Impounded dangerous animals will not be sold or allowed to be redeemed except upon approval of the Animal Control and Education Commission.

(D) The Animal Care and Control Officer shall record a description of impounded animals on forms approved by the commission. If an animal is licensed, the licensee will be notified and the identity of the animal shall be recorded and kept available for public inspection.

(E) Animal Care and Control shall maintain all impounded licensed (with tag) or microchipped animals for a minimum of seven days, unless as otherwise provided for injured or diseased animals, or until claimed by the owner. Untagged and unmicrochipped animals shall be maintained for no longer than seven days, unless as otherwise provided for injured or diseased animals, so long as space allows at the shelter. If the animal is not redeemed within the appropriate time period, the Animal Care and Control Officer shall destroy it in a humane manner as established by NACA (National Animal Control Association) or sell it as commission rules and regulations may permit. Upon sale by the Animal Care and Control Officer of any animal, the bill of sale shall transfer to the buyer the title of the original owner in and to the animal. All proceeds of such sales, together with a bill of sale, shall be delivered to the City Controller. Unlicensed animals apparently in pain may be destroyed on receipt at Animal Care and Control in the discretion of the Animal Care and Control Officer.

(F) Fees for Reclaiming or Redeeming Animals.

(1) A custodian may redeem a quarantined animal before its destruction by paying a fee of \$20.00 plus \$5.00 for each day, or fraction thereof, of impoundment up to 10 days, for a total maximum of \$55.00 plus any fees and fines required by this chapter and rabies voucher costs. If the animal does not have a current rabies vaccination, the custodian must arrange to have the animal vaccinated for rabies as per commission regulations.

(2) A custodian may reclaim a nonquarantined animal by paying a fee of \$7.00 plus \$5.00 per day for each day (or fractional part thereof) plus license fees or fines in accordance with this chapter.

(G) A person who adopts from the Animal Care and Control shelter a domestic animal, which has not been spayed or neutered, shall have that animal spayed or neutered. To promote compliance with this subsection (G), the commission is authorized to establish a program which may include a prepayment voucher system.

(H) All dogs or cats adopted out by the Animal Care and Control shelter shall be microchipped before release.

(I) The Superintendent or designee of Animal Care and Control can waive all fines and citations if the owner agrees to have their animal spayed/neutered and microchipped, before the animal is returned to the owner, at the owner's expense. [1983 Code § 9.90.22.]

#### **6.05.140 Violations.**

(A) Any person, including a commissioner of the Animal Control and Education Commission, the Animal Control Officer, or a Humane Officer, may execute a verified complaint alleging that a person

has committed a prohibited act, thereby requiring the appearance of that person in the appropriate court.

(B) Procedure for the Handling of Complaints of Violations.

(1) It shall be required of any person complaining to the Animal Control Officers or Police Department representatives, regarding domestic animals, to sign a complaint form to be provided by the City describing the animal and the violation, and to make known to the official the owner of the animal if known by the complainant.

(2) One such identified complaint shall be sufficient cause for the Animal Care and Control Superintendent or City Police to issue a warning to the owner, or to impound the animal under procedures outlined in this chapter in accordance with the law. [1983 Code § 9.90.24.]

**6.05.150 Regulation of dangerous animals.**

(A) Actions Allowed by Authorized Persons Prior to Hearing.

(1) If any animal shall attack a person or a pet peaceably conducting himself in any place where he may lawfully be, any person, for the purpose of preventing imminent injury or further injury, may use such force as is required to stop the attack.

(2) A law enforcement officer or ACO acting pursuant to his statutory duties may, where the threat of serious injury to a person or pet is imminent and unjustified, use such force as is required to prevent such injury.

(B) An animal may not be declared dangerous:

(1) If the animal was protecting or defending a person within the imminent vicinity of the animal from an attack or assault;

(2) If at the time the recipient of the attack was committing a crime or offense upon the property of the owner or custodian of the animal;

(3) If the recipient of the attack was teasing, tormenting, abusing or assaulting the animal, or in the past had teased, tormented, abused or assaulted the animal;

(4) If the animal was attacked or menaced by another animal, or the animal attacked was on the property of its owner or custodian;

(5) If the animal was responding to pain or injury, or protecting itself, its kennels or its offspring;

(6) If the person or domestic animal was disturbing the animal's natural functions such as sleeping or eating;

(7) Neither growling nor barking, nor both, shall alone constitute grounds upon which to find an animal to be "dangerous."

(C) Complaint Procedure.

(1) Any person may make a complaint of an alleged dangerous dog as that term is defined herein to an ACO. Such officers shall immediately inform the complainant of his right to commence a proceeding provided for in subsection (C)(2) of this section, and, if there is reason to believe the animal is a dangerous animal, the ACO shall forthwith commence such proceeding himself.

(2) Any person may make a complaint under oath or affirmation of an alleged dangerous animal, as that term is defined herein, to the commission. Thereupon, the commission, subject to judicial review, shall immediately determine if there is probable cause to believe the animal is a dangerous animal and, if so, shall issue an order to an ACO directing such officer to immediately

seize such animal and hold same pending a commission determination as herein provided. If the custodian of the animal refuses to surrender the animal to the ACO, the ACO shall seek a court order authorizing the seizure of the animal. If the animal is found running loose off of the property of the custodian, no such court order shall be necessary. The commission shall, within seven business days of a request for a hearing, and upon written notice of not less than three days to the owner of the animal, hold a hearing on the complaint.

(D) Destruction of the Dangerous Animal. The commission may order an animal destroyed if none of the precautions in subsection (E) of this section are deemed sufficient to prevent the risk of injury to any person.

(E) Where an animal is determined, pursuant to a preponderance of the evidence at a duly constituted hearing, to be "dangerous," the commission, subject to judicial review, shall require the owner of said animal to register such animal with the animal shelter, and to provide prompt notification to the animal shelter of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instances of attack; any claims made or lawsuits brought as a result of further instances of attack; or the death of the animal. In addition, the commission, subject to judicial review, may require any or all of the following, but subsections (E)(5), (6) and (11) of this section, or any one of them, may only be imposed where there has been serious injury to a person.

(1) Indoors, when not alone, the animal must be under the control of a person 18 years or older.

(2) Outdoors and unattended, the animal must be kept within a locked fenced area from which it cannot escape.

(3) When outdoors the animal must be attended and kept within a fenced area from which it cannot escape.

(4) When outdoors the animal must be attended and kept on a leash no longer than six feet and under the control of a person 18 years of age or older.

(5) When outdoors the animal must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. The muzzle must be made of nonmetallic material so as to prevent the muzzle from freezing to the animal.

(6) Outdoors and unattended, the animal must be confined to an escape-proof kennel of the following description:

(a) Such kennel shall allow the animal to stand normally and without restriction, and shall be in compliance with EMC [6.05.060](#) concerning primary enclosures, and shall protect the animal from the elements.

(b) Fencing materials shall not have openings with a diameter of more than two inches, and in the case of wooden fences, the gaps shall not be more than two inches.

(c) Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the animal is confined to such kennel and unattended such locks shall be kept locked.

(d) The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands, or other objects.

(7) Placement of a sign or signs of a description and in places directed by the commission, advising the public of the presence and tendencies of said animal.

(8) Attendance by the animal and its owner/custodian at training sessions conducted by a certified applied animal behaviorist, board certified veterinary behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owners of the animal shall be responsible for all costs associated with the evaluation and training ordered under this section.

(9) Neutering or spaying of the animal at the owner's expense, unless medically contraindicated.

(10) That the animal be permanently identified by tattooing or by injecting an identification microchip, using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with the animal shelter as indicated above.

(11) The procurement of liability insurance in an amount to be determined by the commission, but in no case in an amount of less than \$500,000, covering the medical and/or veterinary costs resulting from future actions of the animal. This condition may not be imposed if it is shown that no such insurance is available for a reasonable premium.

(12) If any of the above conditions ordered by the commission, subject to judicial review, are not complied with, the owner shall be subject to a fine of not more than \$2,500.

(13) If a further incident of attack occurs under such circumstances that the dog, after a hearing as described above, is determined to be a dangerous dog, the commission, subject to judicial review, may impose or re-impose any applicable directives listed above; additionally, humane destruction of the dog may be ordered, but only where the further incident involves serious injury to a person.

(14) Order the animal to be examined by a veterinarian to rule out an underlying treatable medical cause which may be causing the animal to be aggressive. Such examination shall be at the owner's expense.

(F) Procedure before Commission.

(1) The ACO or designee is hereby authorized to declare an animal to be a dangerous animal. Notice of such declaration shall be served personally upon the owner, or his authorized agent, or served by mailing the notice, by certified or registered mail, return receipt requested, upon the owner or his authorized agent. If mailed, the notice shall be deemed effective three business days from depositing the notice in the United States mail. The notice shall indicate that the animal is declared to be a dangerous animal and that if written appeal of the ACO's decision is not filed within 10 days with the Animal Control and Education Commission through the City Clerk's office, the animal shall be destroyed. If ownership of the animal cannot be determined, the animal may be destroyed after detaining the animal for five business days without notice or further action by the department or the commission.

(2) Upon notice of the declaration of the animal to be a dangerous animal, the animal, if not already held in quarantine by the department, shall be surrendered to the ACO pending a decision by the commission on the disposition of the animal or imposition of conditions referred to above. If not voluntarily surrendered to the ACO, a warrant or other court order shall be obtained for the ACO to obtain immediate possession of the animal. No consent or court approval shall be required to obtain possession of the animal if the animal is not under restraint and is not on the property of the owner or his authorized agent.

(3) The timely filing of an appeal of a decision of the ACO to the Animal Control and Education Commission shall stay the decision of the ACO to destroy the animal until a hearing can be held by the commission and a decision rendered thereon. If a hearing is requested, notice of the date, time, place, and purpose of the hearing shall be given to the owner or his authorized agent. The

commission shall review the evidence and render a decision that reverses in whole or in part the decision of the ACO or affirms a decision of the ACO that the animal is dangerous. Upon a finding that the animal is dangerous, the commission may impose one or more of the conditions stated in subsection (E) of this section or have the animal destroyed. A decision of the Animal Control and Education Commission, if appealed, shall be appealed pursuant to IC 34-4-17.5.

(4) If the decision of the commission or the final decision of the courts upon appeal is that the animal is dangerous, the owner shall be responsible for payment of the following fees:

(a) A custodial fee of: \$20.00 administrative fee plus \$5.00 per day until time of the commission's decision and thereafter \$10.00 per day, or for any part of a day, for shelter and food for the animal, plus medical expenses and other costs incurred by the department for the apprehension and maintenance of the animal, and for treatment of the animal while detained. These charges shall accrue until consent is given for destruction of the animal or until the animal is destroyed.

(b) If the decision of the commission or any final decision of the courts upon appeal is that the animal is not dangerous and should be released to the owner, then those charges, as provided herein, shall not be charged to the owner.

(5) An animal that is not under restraint and cannot be safely captured and impounded may be slain.

(G) No person shall own, keep, or harbor a dangerous animal within the City, except for dangerous animals in compliance with the orders of the commission as provided above. This section shall not apply to animals under the control of a law enforcement or military agency, Mesker Park Zoo and Botanic Garden, or a properly permitted circus demonstrating that the animals are in secure enclosures and monitored by trained individuals. [1983 Code § 9.90.30.]

#### **6.05.160 Animals prohibited from certain public gatherings.**

(A) No person shall bring, or maintain in his possession or control, any animal to any public gathering of 500 or more persons upon any public property without permission from the City board having jurisdiction over said property. Permission shall be given by such board only in the following circumstances:

- (1) The vertebrate animal is to participate in some aspect of the event; and
- (2) The vertebrate animal does not present a threat to the public health, safety or welfare.

(B) This section shall not apply to:

- (1) Handicapped persons who have need of a specially trained dog to safely and effectively carry out their activities;
- (2) Events on private property; or
- (3) City, County, State, or Federal law enforcement officers while acting as such.

(C) Any person who violates the provisions of this section shall be subject to a fine of \$25.00 for each violation. Each day a violation occurs may be a separate violation. Additionally, any person who violates this section shall immediately and safely remove the vertebrate animal from the public gathering. [1983 Code § 9.90.52.]

#### **6.05.170 Funding of emergency veterinarian services.**

Ten percent of all license and permit fees shall be placed in a separate fund to pay for the costs of medical care for stabilization for injured or sick animals under the care of Animal Care and Control. If

owners can be located, the owners shall be responsible for reimbursement of the cost of these services. [1983 Code § 9.90.53.]

**6.05.180 Penalties and fees.**

(A) Any person who violates any provision of this chapter shall be subject to a fine, court order to comply, and revocation of licenses or permits issued, such revocation following notice and hearing. Violations of the provisions of this chapter shall be cause for denial of the issuance of a license or permit if in the opinion of the commission such prior acts indicate the applicant's inability to comply in the future.

(B) The following fines are hereby imposed for violation of the provisions indicated in addition to any other remedy provided by the municipal code or by law:

EMC 6.05.030	<p>\$40.00 for the first violation;            \$80.00 for the second violation within any 12-month period;            and            \$120.00 each for three or more violations within any 12-month period.</p> <p>However, for violation of EMC <a href="#">6.05.030(B)(5)</a> or (6), if the animal producing the offspring is spayed within 10 weeks from the birth of the litter, the first fine shall be waived if proof that the animal was spayed is provided to ACC within 30 days of the date the offspring are surrendered to ACC. This is a one-time waiver per owner. The fine shall not be charged prior to reclaiming the animal if the owner signs an agreement stating he will have the animal spayed or neutered within 30 days. The fine shall be imposed if the owner fails to have the animal spayed or neutered and provide proof thereof to Animal Care and Control within 30 days.</p>
EMC 6.05.040(A)(1)	<p>\$40.00 for the first violation;            \$80.00 for the second violation within any 12-month period;            and            \$120.00 each for three or more violations within any 12-month period.</p>
EMC 6.05.040(A)(2)	<p>\$40.00 for the first violation;            \$150.00 for the second violation within any 12-month period;            and            \$500.00 each for three or more violations within any 12-month period.</p>
EMC 6.05.040(A)(3)	<p>\$50.00 for the first violation;            \$150.00 for the second violation within any 12-month period;            and            \$500.00 each for three or more violations within any 12-month period.</p>
EMC 6.05.040(A)(4)	<p>\$80.00 for the first violation;            \$150.00 for the second violation within any 12-month period;            and            \$500.00 each for three or more violations within any 12-month period.</p> <p>For the first violation, if the dog or cat has not been spayed or neutered, the fine shall be waived if the owner has the animal spayed or neutered and provides a veterinarian's statement to Animal Control proving that the animal has been spayed or neutered within 30 days from the date of the violation.</p>

EMC 6.05.040(A)(5)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(6)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(7)(a)	\$50.00 for the first violation; \$75.00 for the second violation within a 12-month period; and \$100.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(7)(b)	\$50.00 for the first violation; \$75.00 for the second violation within a 12-month period; and \$100.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(8)	\$500.00 per violation.
EMC 6.05.040(A)(9)	\$50.00 per violation.
EMC 6.05.040(A)(10)	\$50.00 per violation.
EMC 6.05.040(A)(11)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(12)	\$500.00 per violation.
EMC 6.05.040(A)(13)	\$250.00 for first violation; \$500.00 for the second violation within a 12-month period; and \$1,000 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(14)	\$75.00 for the first violation; \$250.00 for second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(15)	\$50.00 per violation.
EMC 6.05.040(A)(19)	\$500.00 for the first violation; \$1,500 for the second violation within a 12-month period; and \$2,500 each for three or more violations within any 12-month period.
EMC 6.05.040(A)(22)	\$40.00 for the first violation; \$100.00 for the second violation within a 12-month period; and \$250.00 each for three or more violations within a 12-month period.

EMC 6.05.040(A)(25)	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period.
EMC 6.05.040(B)	\$40.00 per violation.
EMC 6.05.040(C)	\$40.00 for the first violation; \$100.00 for the second violation within a 12-month period; \$250.00 for third and subsequent violations within a 12-month period.
EMC 6.05.050	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period.
EMC <a href="#">6.05.060</a> (A) or (B):	\$75.00 for the first violation; \$150.00 for the second violation within a 12-month period; \$500.00 for the third violation within a 12-month period; \$1,000 for each violation after the third violation within a 12-month period.
EMC <a href="#">6.05.060</a> (C) or (D):	\$75.00 for the first violation; \$150.00 for the second violation of the same in any 12-month period; \$500.00 for the third violation of the same in any 12-month period; \$1,000 for each violation after the third violation of the same within a 12-month period.
EMC <a href="#">6.05.060</a> (E):	\$500.00 for the first violation; \$1,500 for the second violation within any 12-month period; \$2,500 each for three or more violations within any 12-month period.
EMC 6.05.070	\$40.00 for the first violation; \$150.00 for the second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.080	\$40.00 per violation.
EMC 6.05.090	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.100	\$250.00 per violation.

(C) For any violation of this chapter for which a fine is not provided in subsection (B) of this section, there is hereby imposed a fine of \$100.00 for each offense; each day of violation shall be considered a separate offense. Additionally, a court may order compliance with the provisions of this chapter.

(D) Upon a finding that a person's continued maintenance of an animal poses a substantial threat of serious bodily injury or death to the animal or to a person, the commission may order the custodian to release the animal to the animal shelter for adoption or destruction or to such other person as a court may order.

(E) If a person is found by a court of law to have violated IC 35-46-3-7 or 35-46-3-12(a), such person shall not be issued a license to possess an animal of the same species at the same address of the person convicted, for a period of 10 years from the date of conviction of that person.

(F) If a person is found to have violated the provisions of EMC [6.05.060](#)(E) by the commission, after notice and hearing, or by a court of law, no person shall be issued a license hereunder to possess an animal of the same species for a period of three years at the same address of the person found to have violated EMC [6.05.060](#)(E).

(G) If the person found responsible for violation of this chapter is a minor, the parent or parents or the guardian of the minor shall be responsible for the actions of such minor and shall be liable for payment of the fine or fines imposed hereunder.

(H) Use of the incinerator and fees associated therewith are at the discretion of the Board of Public Works and shall not exceed cost of operation.

(I) Adoption fees: \$20.00 plus spay/neuter/rabies vaccine, plus license fee.

(J) Rental of traps: \$5.00 plus \$50.00 deposit, to be adjusted as cost of traps fluctuate.

(K) Euthanasia Fee. Established by the Board of Public Works not to exceed cost of operation.

(L) Selling of Exotic Animals. Current market value at discretion of Superintendent. [Ord. G-2006-23, passed 12-04-06. 1983 Code § 9.90.99.]

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