

**AN ORDINANCE TO REPLACE CHAPTER 91: ANIMALS
IN THE CODE OF ORDINANCES OF NEW ALBANY, INDIANA**

WHEREAS, the Animal Control Authority has reviewed the entire Animal Ordinances, and

WHEREAS, the Animal Control Authority, after such review, has determined that the current city ordinance concerning animals should be replaced with this ordinance.

NOW, THEREFORE BE IT ORDAINED that it being the intention of this ordinance to repeal Ord. G-94-195, passed 8-2-94, and G-89-156, passed 1-19-89, and G-96-162 passed 12-23-96, and current Chapter 91, previously passed by the Common Council of the Civil City of New Albany and substitute the following Chapter 91 in its entirety:

CHAPTER 91

ANIMAL CONTROL CHAPTER

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DEFINITIONS GENERALLY

§ 91.00 DEFINITIONS FOR USE IN THIS CHAPTER

As used in this chapter, the following definitions shall apply:

ABANDONMENT. To deposit, leave, drop off or otherwise dispose of any live domestic animal on any public or private property, or leaving an animal for a period in excess of twenty-four (24) hours, without the animal's owner or the owners designated caretaker providing reasonable care as defined in this chapter and checking on the animal's condition

ALTERED ANIMAL. Any domestic animal that has been spayed or neutered.

ANIMAL. Any warm-blooded or cold-blooded land dwelling vertebrate, excluding humans to which this chapter does not apply.

ANIMAL CONTROL AUTHORITY means the New Albany/Floyd County Animal Control Authority and its governing board established by an Inter-local Cooperation Agreement between the County of Floyd and the City of New Albany on 20th of May 1999 pursuant to the provisions of I. C. 36-1-7 et seq. for the operation of the New Albany-Floyd County Animal Control and Shelter, which inter-local agreement is ratified, affirmed and incorporated herein by reference.

ANIMAL CONTROL OFFICER. Any person designated by the Floyd County Animal Control Authority to enforce the terms and provisions of this chapter; or any law enforcement officer of the State of Indiana.

ANIMAL SHELTER. For the purposes of this chapter, the term Animal Shelter shall refer to the New Albany/Floyd County Animal Shelter.

APPROVED RABIES VACCINE. Any vaccine for protecting an animal from contracting rabies approved as effective by the Indiana State Board of Animal Health (BOAH) and by the National Association of State Public Health Veterinarians, Inc. (NASPHV) in the most current version of the annual Compendium of Animal Rabies Prevention and Control.

ATTACK. Any aggressive contact with a human being that causes any degree of bodily injury, or any aggressive contact with a domestic pet, livestock, or poultry that could result in death or injury.

BITE. Any injury caused by the tearing, puncturing or cutting of the skin caused by teeth or fangs.

CAT. Any domestic feline.

CATTERY PERMIT. A certificate issued by the Animal Shelter to any person or organization that operates a Class A or Class B Cattery.

CLASS A KENNEL OR CATTERY. Any lot or premises where dogs and/or cats are kept for the purpose of breeding, buying, selling, or boarding such animals, and which the lot or premises is so constructed so that the animals cannot stray there from. Class A Kennels or Catteries must have current permits issued by the Animal Shelter, regardless of the number of animals it may harbor.

CLASS B KENNEL OR CATTERY. Any lot or premises where ten (10) or more dogs or cats are kept for the purpose of sporting use, showing, companionship, rescue or for a hobby. Class B Kennels or Catteries must have current permits issued by the Animal Shelter

CRUELTY. Any act prohibited by section 91.07 through 91.07.6 of this chapter.

DANGEROUS ANIMAL. Any animal which, unprovoked, commits an attack upon, harms or kills a person or another domestic animal. A dangerous animal shall also include any mammal for which there is no approved rabies vaccine.

DOG. Any domestic canine.

DOMESTIC ANIMAL. Any animal whose physiology has been determined and/or manipulated through selective breeding, and any mammal, whether or not its physiology has been determined or manipulated through selective breeding, which can be vaccinated against rabies with an approved rabies vaccine.

ENCLOSURES.

(1) ENCLOSURES FOR DOGS.

(a) Enclosures for dogs shall be a fence or structure of sufficient height and construction to prevent the animal from leaving the owner's property. The fence or structure must be in good repair and must be constructed in such a way as to prevent the animal from leaving the owner's property. The enclosure must contain proper shelter from the weather. Gates and doors must fit properly and must be locked or secured by a latch that prevents the animal from opening the gate or door.

(b) Property enclosed by a buried wire which produces a signal received by a device attached to a collar worn by the animal, and prevents the animal from leaving the property of the owner will be considered a proper enclosure, provided the device and signal are working and the animal does not leave the property unrestrained. The enclosure must contain proper shelter from the weather. This type of enclosure is not acceptable for an unaltered animal, an animal declared a public nuisance or a dangerous animal

(2) ENCLOSURES FOR DANGEROUS ANIMALS

Enclosures for dangerous animals shall be a covered fence or fabricated structure at least six feet in height, installed beneath ground level or in concrete or pavement, to prevent digging under it, and with a gravel or concrete floor, sufficient size to allow the animal to stand, sit, and turn around in a natural position, and which allows for adequate exercise for the size/breed being kept. Enclosures shall be designed to prevent the entry of children or unauthorized persons. Enclosures shall be securely locked with a combination or key lock which has been designed to prevent accidental or malicious opening of the enclosure. Enclosures must contain proper shelter and a shaded area. The owners residence, other existing residence or storage building are not appropriate enclosures for a dangerous animal. Any structure may be subject to approval by the City Building Department and it is the responsibility of the owner to comply with building codes if required.

EQUINE Domestic animals, including, but not limited to horses, stallions, colts, geldings, mares, fillies, ponies, miniature horses, donkeys, mules, jacks and jennies.

EXOTIC ANIMAL. Any animal that is not normally considered to be a domesticated animal as defined in this chapter. Any animal required to have a state and/or federal permit to harbor. This includes, but is not limited to, nonhuman primates; venomous cold-blooded reptiles; poisonous animals; constrictor snakes 3 feet or longer; crocodilians 5 feet or longer; wild or exotic cats including cheetahs, lions, panthers and tigers (excluding feral cats); wolves; bears; sharks; poisonous spiders and insects; elephants; camels; wild animals such as, but not limited to, skunks, raccoons, deer, coyote, weasels, opossum, foxes, mink, muskrat, squirrels and badgers.

HARBORING. The actions of any person that permit any animal to lodge or to be fed within his/her home, store, enclosure, yard, or place of business or any premises which the person owns, or in which the person resides, or over which the person has possession or control. An animal shall be presumed harbored if it is fed or sheltered for three (3) consecutive days

HUNTING means the pursuit of any wild animal or bird licensed and regulated under Ind. Code 14-22-11-1, or any successor provision to that statute. A **HUNTER** is a person engaged in hunting and is in possession of a valid state hunting license.

IMPOUNDED. Taken into custody of an Animal Control Officer and/or taken to the Animal Shelter.

KENNEL PERMIT. A certificate issued by the Animal Shelter to any person or organization that operates a Class A or Class B Kennel.

LEAD or LEASH. A device used for humanely restraining an animal (see *RESTRAINT*).

LIVESTOCK. Any animal raised for, or used in agriculture, including, but not limited to sheep, rams, ewes, lambs, bulls, cows, steers, heifers, calves, swine, boars, sows, piglets, goats, bucks, does, kids, horses, stallions, mares, foals, mules, jacks, jennets, donkeys, burros, llamas, alpaca, buffalo, deer, elk, ostrich, emu, or any other animals of the bovine, equine, ovine, porcine, lagomorphs, caprine species, as well as poultry, ratites, and cervine, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products.

MICROCHIP. A passive transponder which can be implanted into an animal and which is a component of a radio frequency identification (RFID) system. [NOTE: The **microchip** in use in Floyd County and surrounding communities is a 125mhz microchip, and it is the standard being adopted throughout the nation. Whenever a "microchip" is referred to or required under this chapter nothing other than a 125 Mhz microchip will satisfy this section.]

NEGLECT. Any reckless or negligent act or omission which results in a domestic animal or livestock not receiving adequate shelter, food, water, or in a domestic animal or livestock not receiving necessary veterinary care, or in a domestic animal or livestock housed in unhealthy living conditions.

NUISANCE. Any act of an animal or its owner that irritates, perturbs or damages rights and privileges common to the enjoyment of public or private property or indirectly injures or threatens the safety of a member of the general public. By way of examples and not of limitation, the commissions on the following acts or actions by an animal or by its owner or possessor may hereby being declared a nuisance:

(1) Allowing or permitting an animal to habitually bark, whine, howl, mew, crow or cackle in an excessive or continual fashion or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(2) Allowing or permitting an animal to damage the property of any person other than its owner or caretaker, including to, but not limited to getting into or turning garbage containers or damaging gardens, flowers, plants or other real or personal property or leaving fecal material on the property of another person.

(3) Allowing or permitting an animal to molest, chase, snap at, attack or attempt to attack passers-by, vehicles, other domestic animals or livestock.

(4) Allowing or permitting an animal to habitually or continually roam or be found on property of other than its owners or caretakers, trespassing school grounds, parks or the property of any person.

(5) Allowing or permitting an animal to be housed or restrained within reach of a public street, road, sidewalk or access and, in the discretion of the Animal Control Officer, poses a threat to the general public safety, health and welfare of the general public.

(6) Allowing or permitting an area to be maintained in an unsanitary condition by the accumulation of animals and/or animal waste so as to be offensive to sight or smell.

OWNER. Any person owning, keeping, harboring, or having control or custody of animals within the jurisdiction of this chapter, provided, that in the event that a minor person shall be determined the owner of the animal, the parent, guardian of such minor person shall be responsible to ensure compliance with the terms and provisions of this chapter, and shall be liable for any non-compliance herewith.

POULTRY. All domesticated fowl and all game birds which are legally kept in captivity, including, but not limited to chickens, ducks, guinea fowl, turkeys, geese, peacocks.

QUARANTINE. Humane confinement of an animal in a building which prevents the animal coming into contact with any animal or human being other than the owner or caretaker.

RESTRAINT FOR ALL ANIMALS.

(1) For all animals, RESTRAINT shall mean confined to the premises of the owner or, if off of the premises of the owner, under restraint by means of a lead or leash and under the control of a responsible person.

(2) Any tethering system employed in place of a fence shall not allow the animal to leave the owner's property. The chain or tether must not be made of rope, twine, cord or similar material that can easily be cut or chewed through. Any tethering system shall not be acceptable for any animal declared dangerous.

(3) No chain or tether shall weigh more than 1/8 of the animal's body weight.

(4) Any chain or tether must be attached to a properly fitting collar or harness worn by the animal as defined in this chapter. A chain, choke, pinch collar or head halter shall not be utilized for tethering purposes. The use of properly fitted head halters shall not apply to livestock.

(5) No dog shall be chained or tethered that has not been spayed or neutered.

(6) Spayed or neutered dogs may not be chained or tethered for more than ten (10) continuous hours in any twenty-four (24) hour period. Dogs may not be chained or tethered at all between sunset or sunrise.

(7) In addition to the requirements of subsection (2), above, under this definition, **RESTRAINT** for dangerous animals shall mean as follows:

(a) That dangerous animals are at all times securely muzzled when off the premises of the owner. The muzzle shall be made in such a manner that will not cause injury to the animal or interfere with the animal's vision or respiration, but shall prevent the animal from biting any human or other animal.

(b) That owners of dangerous animals shall not allow the animal to be outside an enclosure as defined in this chapter unless the animal is leashed, muzzled and under the control of a person over the age of eighteen (18) years and physically able to restrain the animal.

(8) All livestock shall be confined by a fence in good repair sufficient to prevent the animal from leaving the owner's property. Livestock found on property, but not restrained by a fence in good repair may be impounded at the owner's expense and the owner charged with a violation of this section.

(a) All livestock weighing more than forty (40) pounds, except equines, must be kept on tracts or lots of at least .5 acres or more per animal.

(b) Equines, including, but not limited to horses, stallions, colts, geldings, mares, fillies, ponies, miniature horses, donkeys, mules, jacks and jennies must be kept on an individual tract or lot of at least one acre or more per animal.

(9) All poultry shall be kept in a fence or structure of sufficient height and construction to prevent the animal(s) from leaving the owner's property. The fence or structure must be in good repair.

REASONABLE CARE. That degree of care which a reasonable and prudent person would, under the same or similar circumstances, render to an animal to prevent injury, to care for an existing injury, or to prevent death.

RUNNING AT-LARGE. Any domestic animal, not located on the real property of its owner, shall be deemed running at-large if it is not under restraint as defined in this chapter.

SCRATCH. Any injury caused by the tearing, puncturing or cutting of the skin caused by nails or claws.

SERVICE ANIMAL. Any animal that is individually trained to perform tasks for a person with a disability such as, but not limited to, guiding people who are blind, alerting people who are deaf, people in wheelchairs, alerting and protecting an individual who is having a seizure, or performing other special tasks. Service animals are working animals. Any animal employed as a therapy and/or companionship animal shall not be considered as a service animal.

SEVERE ATTACK. An unprovoked attack in an aggressive manner upon a human, in which the victim suffered a bite, was shaken violently or which caused serious physical trauma or death.

SHELTER. A structure or other means of protecting an animal from inclement weather which:
(1) Shall be cleaned and maintained regularly so as to prevent the accumulation of waste and debris;
(2) Shall be constructed and maintained as needed to promote drainage of rain water and;
(3) Shall provide reasonable protection for the animal from temperature extremes.

STRAY. Any domestic animal found on public or private property and not under restraint as defined in this chapter. Any abandoned animal not under restraint as defined in this chapter.

TETHER. A restraint fastened humanely to an animal so as to keep it within certain bounds (see **RESTRAINT**).

UNALTERED ANIMAL. Any domestic animal that has not been spayed or neutered.

ANIMALS GENERALLY

§ 91.01 PERMITTING ANIMALS TO RUN AT-LARGE.

(1) It shall be unlawful to permit any animal of any kind to run at-large. All animals shall be kept under restraint at all times, as defined in this chapter, and any deviation or violation thereof is strictly prohibited.

(2) The foregoing provision shall not apply:

(a) If the animal owner is engaged in hunting, and the animal in question has been trained to assist in hunting, and the animal's activities are being supervised by the hunter;

(b) In any section of a public park designated as a leash free zone.

(3) Dangerous animals are not allowed to be in any area designated as a leash free zone.

Penalty, see § 91.99

§ 91.02 AUTHORITY TO KILL DOMESTIC ANIMALS.

Animal Control Officers are authorized to kill any domestic animals of any kind when it is necessary to do so for the protection of any person or property.

§ 91.02.5 INTERFERENCE WITH ENFORCEMENT PROHIBITED.

(1) No person shall in any manner interfere with, hinder, molest, or abuse any officer or individual duly authorized to enforce the provisions of this chapter.

(2) No person shall in any manner seek to release or remove any animal in the custody of the Animal Shelter, or from any humane trap identified as the property of the Animal Shelter.

Penalty, see § 91.99

§ 91.03 KEEPING LIVESTOCK IN CITY.

No person shall keep livestock within the city. This section shall not apply to pot bellied pigs.

Penalty, see § 91.99

§ 91.04 PERMITTING LIVESTOCK OR POULTRY, AND THE LIKE TO RUN AT-LARGE

It shall be unlawful to permit any livestock or poultry to run at-large within the city. Any such animal running at-large within the city may be impounded.

Penalty, see § 91.99

§ 91.05 EXHIBITIONS OR PARADES OF ANIMALS.

Any exhibitions or parades of animals which are *ferae naturae* in the eyes of the law may be conducted only upon securing a permit from the Board of Public Works.

Penalty, see ss. 91.99

§ 91.05.5 ANIMALS AS PRIZES OR INDUCEMENTS.

It shall be unlawful to give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contract, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter in any business agreement in which the offer was for the purpose of attracting trade. The Animal Shelter and its offsite locations will be exempted from this section.

Penalty, see § 91.99

§ 91.06 ANIMAL WHICH IS A PUBLIC NUISANCE.

No owner shall permit an animal to participate in any of the following activities: excessive, continuous, or habitual barking or howling, molesting of passerby; chasing of vehicles; attacking of other animals; trespassing on public or private property; or damaging property of another.

Penalty, see § 91.99

§ 91.07 CRUEL TREATMENT OR NEGLECT OF ANIMALS PROHIBITED.

(1) For purposes of this chapter, "cruelty" means any act prohibited by this section. No person shall cause infliction of pain, any form of bodily injury or death to an animal by:

(a) Striking, beating, dropping, throwing, kicking, dragging, choking, or by the use of an object or weapon;

(b) Means of caustic, flammable, chemical, boiling, or heated substances; causing suffering, any form of bodily injury or death by suffocation or drowning;

(c) Failing to provide adequate food, water and shelter.

(d) Failing to detect the need for or withholding veterinary care, including care and maintenance of skin and coat, creating or allowing unhealthy living conditions whether by intentionally or by severe omission.

(2) No person shall engage, participate or be present in any acts or actions as defined as cruelty in this chapter. No person shall cruelly treat or torment any animal.

(3) In the event there is a reasonable cause to suspect that an animal is being a victim of cruelty or neglect, custody of such animal may be taken by an Animal Control Officer and impounded at the Animal Shelter. If claimed by its owner within the time limit as defined in this chapter, the animal may be held as evidence and confined in a humane manner. Upon a court finding that the animal has been a victim of cruelty, the animal shall become the property of the Animal Shelter. Any owner or caretaker shall be responsible for all fees as defined in this chapter.

Penalty, see § 91.99

§ 91.07.1 ANIMAL FIGHTING AND; EXHIBITION FIGHTING PROHIBITED.

(1) No person shall cause or permit any dogfight, cockfight or other combat between animals. In the event there is a reasonable cause to suspect that an animal is involved in a dogfight, cockfight or other combat, custody of such animal and all animals of the same species on the same property may be taken by an Animal Control Officer and impounded at the Animal Shelter. The animal may be held as evidence and confined in a humane manner. Upon finding by a court that the animal was involved in a dogfight, cockfight or other combat between animals, the animal shall become the property of the Animal Shelter.

(2) No person shall own, possess, keep, train, exercise, breed or raise any dog or other carnivore, bird or animal with the intent that such dog or other carnivore, bird or animal be utilized, sold, given or leased for fighting and/or engaged in an exhibition of fighting. In the event that a person owns, possesses, keeps, trains, exercises, breeds or raises any dog or other carnivore, bird or animal and/or engages in an exhibition of fighting or selling, leasing or giving such animals for fighting, such person shall be liable for citation for violation of this chapter.

(3) No person shall be present at any dogfight, cockfight, animal fighting, or combat between animals. In the event that a person is present at a dogfight, cockfight, animal fighting or combat between animals, such person shall be liable for citation for violation of this chapter.

(4) Any person who is found present at a dogfight, cockfight, or combat between animals, and who is charged with being a spectator in violation of this chapter, and who is in possession of and/or is the owner of an animal of the same species as that involved in the animal fight, may be charged with intent to engage in an exhibition of fighting in violation of this chapter. Any animal shall be seized and impounded as defined in this chapter if found on the premises or in the immediate area of the dogfight, cockfight, or combat between animals.

(5) No person may own, possess, keep or utilize any animal fighting paraphernalia utilized to train and/or fight such animal.

Penalty, see § 91.99

§ 91.07.2 PROVISION OF NECESSITIES.

(1) Any owner or caregiver shall provide his/her animal with a good and adequate amount of wholesome food to maintain a healthful level of nutrition. Any owner or caregiver shall provide and maintain a constant and reachable supply of fresh and clean water at all times for his/her animal.

(2) Any animal shall be provided with adequate shelter and protection from the weather at all times. It shall be the discretion of Animal Control Officers to determine what constitutes adequate shelter and protection from the weather. Shelters shall be constructed to protect the animal from precipitation and of a

material that provides protection from extreme temperatures. In addition to the shelter, a shaded area shall also be provided by means of other structures, trees, tarps or awnings. Insulating bedding materials, such as straw, chipped wood, wood shavings or other materials that dry quickly shall be provided during inclement weather. Shelters must be cleaned and maintained regularly so as to promote proper health for the animals being kept.

(3) Any owner or caregiver shall provide to his/her animal with proper, humane, medical and veterinary care and treatments when sick, diseased, injured or for the purpose of preventing suffering.

(4) Any owner or caregiver of animals shall maintain an appropriate environment with clean and healthful living area for any animal being kept, which area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris. All living areas shall be constructed and maintained to promote drainage of rainwater to prevent the accumulation of mud and/or water.

Penalty, see § 91.99

§ 91.07.3 RESTRAINT BY TETHER; AND COLLAR SPECIFICIATIONS.

(1) If any animal is restrained by a chain, cable or similar restraint, it shall be designed and placed as defined under RESTRAINT in this chapter.

(2) All collars and harnesses used for the purpose of chaining or tethering an animal must be made of nylon, leather or other durable and non-metallic material. A chain, choke, pinch collar or head halter shall not be utilized for tethering purposes. The use of properly fitted head halters shall not apply to livestock.

(3) All collars or harnesses must be fit regularly to avoid causing injury or becoming embedded into the animal's body.

(4) No chain or tether shall weigh more than 1/8 of the animals' body weight.

(5) No dog shall be chained or tethered that has not been spayed or neutered.

(6) Spayed or neutered dogs may not be chained or tethered for more than ten (10) continuous hours in any twenty-four (24) hour period. Dogs may not be chained or tethered at all between sunset and sunrise.

Penalty, see § 91.99

§ 91.07.4 SEXUAL ACTS WITH ANIMALS.

No person shall engage or cause to allow any other person to engage in a sexual act with any animal.

Penalty, see § 91.99

§ 91.07.5 ABANDONMENT.

(1) No person shall abandon any animal. Abandonment consists of leaving an animal for a period in excess of twenty-four (24) hours, without providing and checking on the animal's condition, or failure to contact Animal Control if a request to contact is left on the property where the animal is. No owner shall leave an animal by a roadside or other area, or leave such animal on either public or private property, without the property owner's consent. In the event that an animal is found so abandoned, such animal may be taken by an Animal Control Officer and impounded at the Animal Shelter, and there confined in a humane manner. Such animal, if taken from private property, shall be kept for not less than the prescribed period in accordance with the procedures set forth in section ss. 91.24. When a caregiver is mandated by the owner of such and the animal is so abandoned, the caregiver may be subject to a citation for violation of this section and all fees as defined in this chapter.

(2) Any Animal Control Officer is authorized to impound such animal if the Animal Control Officer deems that the condition of the animal requires immediate care or veterinary treatment and/or upon finding reasonable suspicion of abandonment and/or believe such animal needs to be removed for humane reasons. The Animal Control Officer is authorized to go on and about private property to investigate any abandonment to establish or not reasonable suspicion of abandonment.

Penalty, see § 91.99

§ 91.07.6 CRUELTY.

(1) For the purpose of this section, cruelty of an animal shall also be defined as a failure by a person to adhere to the remedies and requisites ordered by an Animal Control Officer to comply with the requirements and provisions of any sections of this chapter.

(2) No person shall engage, participate or be present in any acts or actions as defined as cruelty in this chapter. No person shall cruelly treat or torment any animal.

(3) In the event there is a reasonable cause to suspect that an animal is being a victim of cruelty, custody of such animal may be taken by an Animal Control Officer and impounded in the Animal Shelter. If claimed by an owner within the time limit as defined in this chapter, the animal may be held as evidence

and confined in a humane manner. Upon a court finding that the animal has been a victim of cruelty, the animal shall become the property of the Animal Shelter. Any owner or caregiver shall be responsible for all fees as defined in this chapter.

Penalty, see § 91.99

§ 91.08 KEEPING ANIMALS PLACES OF HABITATION CLEAN.

(1) No person shall cause or allow any place where any animal is, or may be, kept to become unclean or unwholesome, but shall keep the same clean and sanitary, and free from all refuse and rodents. Such places shall be cleaned at least once every forty-eight (48) hours. It shall be unlawful to permit any decaying food, excreta or any refuse of any kind to remain in such place. Refuse from such places shall, when swept or collected, be kept in containers until disposed of in accordance with the ordinances of the city.

(2) It shall be unlawful for the owner or caregiver of an animal to permit or allow such animal to excrete manure or feces on school grounds, parks or other public property, or on any private property other than that of the owner or person in charge or control of such animal without the permission of the owner of said property, or on any streets, sidewalk, or highways, unless the owner or person in control of such animal immediately removes all manure or feces deposited by such animal and disposes of same in a sanitary manner.

(3) This section may not apply to persons accompanied by a service animal used for their assistance.

Penalty, see § 91.99

§ 91.09 ANIMALS AFFLICTED WITH CONTAGIOUS DISEASE.

No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at-large, or be exposed in any public place within the city whereby the health of man or animal may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner, except for the purposes of transporting directly to obtain veterinary assistance, or by the order of the Chief of the Police Department in the Civil City of New Albany, Indiana or the County Sheriff within the unincorporated areas of Floyd County, Indiana, or an Animal Control Officer.

Penalty, see § 91.99

§ 91.10 RABIES QUARANTINE OF ANIMALS.

(1) Any animal (excluding wildlife) which has bitten and/or scratched a human being shall be quarantined for ten (10) days from the time of the bite and/or scratch occurs. The animal shall be examined after it has bitten and/or scratched any human being, and again at the end of the ten (10) day period by an agent of the Floyd County Health Department. If at the end of the ten (10) day period the agent of the Floyd County Health Department is convinced that the animal is free from rabies, the animal may be released from quarantine. If the animal dies during the ten (10) day period, its head shall be sent to the Indiana State Department of Health for examination at the expense of its owner for examination for rabies. Any owner who fails to properly quarantine his/her animal is subject to citation for violation of this chapter, and the animal may be impounded at the Animal Shelter or a licensed Animal Clinic or Animal Hospital for the remainder of its quarantine period. The owner shall be responsible for all fees (see attached fee schedule) during the quarantine period and stay at the Animal Shelter as defined in this chapter.

(2) Any animal whose owner is unavailable or incapable of quarantining the animal is subject to the animal being taken by an Animal Control Officer and quarantined at the Animal Shelter or a licensed Animal Clinic or Animal Hospital for the prescribed period.

(3) Any owner of an animal which bites and/or scratches a human being may elect to board such animal at the Animal Shelter for the quarantine period, if space is available, and must pay certain fees (see attached fee schedule) in accordance with a schedule approved by the Mayor and Common Council of the city. Any owner of an animal which bites and/or scratches a human being may elect to surrender such animal to the Animal Shelter, and must pay certain fees (see attached fee schedule) in accordance with a schedule approved by the Mayor and Common Council of the city.

(4) Any quarantined animal not reclaimed by an owner within twenty-four (24) hours of the expiration of the prescribed period of quarantine shall be humanely euthanized.

(5) Any human being bitten and/or scratched by an animal (excluding wildlife), or any physician or other medical professional or medical institution treating such bite and/or scratch on a human being shall report the bite and/or scratch to the Animal Shelter and/or the Floyd County Health Department within twenty-four (24) hours.

(6) Any stray animal (excluding wildlife) which bites and/or scratches a human being shall be quarantined at the Animal Shelter.

(7) Any dangerous animal that cannot be vaccinated against rabies with an approved rabies vaccine, or any animal which has no established rabies quarantine observation period, which bites and/or scratches a human being, is to be euthanized and its head shall be sent to the State Department of Health for examination all at the expense of its owner or harborer for examination for rabies.

Penalty, see § 91.99

§ 91.11 ALLOWING ANIMAL TO REMAIN IN PARKED VEHICLE.

It shall be unlawful to leave an animal in a vehicle when the conditions in that vehicle would pose a health hazard to the animal. Animal Control Officers are authorized to seize and rescue such animal under these conditions. Damages incurred to such vehicles during the seizure of such animal shall be at the expense of the vehicle owner.

Penalty, see § 91.99

§ 91.12 SPAY/NEUTER PROGRAM ESTABLISHED AT ANIMAL SHELTER.

This chapter adopts a spay/neuter program for the Animal Shelter on the following terms:

(1) All persons wishing to adopt a dog or cat at the Animal Shelter must pay a spay/neuter fee with their adoption fees. All animals adopted from the Animal Shelter must be surgically altered unless a licensed veterinarian, in writing, states the animal is unfit for surgery.

(2) The Animal Shelter shall deposit all monies collected from this spay/ neuter fee into the Non-Reverting fund for the spay/neuter program with the City Controller, and thereafter shall process all claims to maintain the spay/neuter clinic at the shelter.

(Ord. G-95-209, passed 2-16-95)

ANIMAL REGISTRATION, PERMITS AND RABIES VACCINATION

§ 91.15 DOGS AND CATS TO BE REGISTERED AND LICENSED.

(1) Any person owning, harboring or having custody of a dog or cat within the city must obtain a license under this chapter (see attached fee schedule) within 15 days of obtaining the animal. Licenses shall be valid for one year from date of issue. Any person not eligible for a license may not own a dog or a cat.

(2) Applications for licenses shall be made to the Animal Shelter. Application for a license must be within 15 days of having custody of the animal.

(3) If the applicant withholds or falsifies any information on the application, no license shall be issued. Any licenses issued upon false or withheld information shall be null and void.

(4) Application shall include species, gender, breed, name, whether the animal has been neutered or spayed, a current rabies certificate, if required, issued by a licensed veterinarian, and the name, telephone number and address of the owner/harbinger, and information on whether the applicant has been cited with a violation of this chapter or convicted of cruelty to animals.

(5) No person who has been convicted of cruelty to animals shall be issued a license. It shall be within the discretion of the Animal Shelter whether to issue a license if there have been three (3) or more violations of this chapter within twelve month's time.

(6) Upon issuance of the license and payment of all fees, the Animal Shelter shall issue to the applicant a durable tag stamped with an identification number. Animals must wear such tags at all times when outside the owner or harbinger's dwelling unit. The licensing agent shall maintain a record of the identifying number of all tags issued.

(7) The Animal Shelter shall charge fees for animal licenses and certain other charges pursuant to a schedule approved by the Mayor and Common Council of the city (see attached fee schedule). The animal shelter shall deposit all monies collected from this section into the Non-Reverting fund for the Animal Control Runs Fund with the City Controller. The fees shall be collected by the Shelter, or by its fiscal agent.

(8) The license fee shall be waived for certified service animals, governmental police dogs, or other certified animals that are trained to assist the physically handicapped. These shall still be registered with the Animal Shelter and must obtain a license as any other.

(9) The owner of any animal deemed by a veterinarian to be unfit to undergo a spaying or neutering operation shall be, upon presentation of written certification to that effect by a licensed veterinarian, charged the fee for a spayed or neutered animal.

(10) No person shall use a license for any animal other than the animal for which it was issued.

Penalty, see § 91.99

§ 91.15.1 EXOTIC ANIMALS TO BE REGISTERED

All exotic animals as defined in this chapter shall be registered with the Animal Shelter. Registration shall include the name, address and phone number of the owner, and a description of the animal to aid Animal Control Officers in finding the owners of any stray animal or during an emergency. Any fee for registration may be waived by the Animal Shelter.

Penalty, see § 91.99

§ 91.16 KENNEL AND CATTERY PERMIT

- (1)** Any person who keeps or operates a Class A or Class B Kennel or Cattery must apply to the Animal Shelter for a kennel/cattery permit.
- (2)** All kennels and catteries harboring animals must comply with all sections of this chapter pertaining to the health, well-being and proper sanitary conditions of the animals.
- (3)** No kennel or cattery permit shall be issued until an Animal Control Officer has inspected the facility and found that the facility is operated or is to be operated in accordance with the provisions of this chapter. The Animal Shelter may exclude any kennel or cattery from complying with section 91.15 of this chapter.
- (4)** Proof of rabies vaccination for every animal four (4) months of age or older harbored at the kennel/cattery must be kept on the property and provided to the Animal Shelter upon request.
- (5)** Kennel/Cattery permits expire one year from the date of issuance.
- (6)** If the applicant or permit holder fails to meet the requirements of this ordinance, the Animal Shelter may so notify the applicant or permit holder in writing within three (3) days of discovery of the failure to comply with the provisions of this chapter. The written notice shall advise the applicant or permit holder of any existing deficiencies and the corrective measure that must be taken and completed to bring the premises, facilities, cages, aquariums and equipment into compliance with the provisions of this chapter. The applicant or permit holder may be given no more than thirty (30) calendar days and no less than fourteen (14) calendar days to complete the corrective measures, except that if any deficiency threatens the health or welfare of the animals harbored or of the public, such corrective measures may be made immediately or no later than one (1) day after notification of the deficiency.
- (7)** Failure to correct the noted deficiencies as required may be deemed failure to comply with the provisions of this chapter and may be cause for denial of application or revocation of a kennel/cattery permit and/or impoundment of all animals.
- (8)** A denial of application or renewal of a permit or revocation of an existing kennel/cattery permit shall be in writing, with the reasons for denial or revocation stated. Written notice of denial or revocation will be served either in person or by mail.
- (9)** Denial of an application or renewal or a permit or revocation of an existing kennel/cattery permit shall prohibit operation of the kennel or cattery.
- (10)** All applicants for a kennel/cattery permit, or the renewal of an existing kennel/cattery permit will be charged an annual fee. The permit fee may be discounted in recognition of responsible ownership practices, which include, but not limited to, spaying, neutering and microchipping of all animals harbored, and no issuance of citations or ordinance violations of this chapter.
- (11)** The Animal Shelter will be excluded from this section.

Penalty, see § 91.99

§ 91.17 DOGS, CATS AND FERRETS OVER THREE MONTHS TO BE INOCULATED.

It shall be unlawful to own, possess, keep or harbor any dog, cat or ferret over the age of three (3) months within the city, unless that animal has been inoculated against rabies by a licensed veterinarian and the inoculation period has not expired. No license tag shall be issued for any dog or cat over the age of three (3) months, unless the applicant for the license presents proof that the animal has been inoculated for rabies and the inoculation period has not expired.

Penalty, see § 91.99

IMPOUNDMENT AND REDEMPTION OF ANIMALS

§ 91.20 The Mayor and Common Council of the city provide Animal Control Authority and Animal Shelter.

The Animal Control Authority was established by an Inter-local Cooperation Agreement between the County of Floyd and the City of New Albany on 20th of May 1999 pursuant to the provisions of I. C. 36-1-7 et seq. and all the terms and conditions contained therein are affirmed and incorporated by reference herein. The City of New Albany shall provide for an Animal Control Authority and Animal Shelter. The Animal Control Officer shall have the authority to impound animals.

The Animal Control Authority or their Agent shall be responsible to the Mayor of the City of New Albany . (Ord. G-94-195, passed 8-1-94)

§ 91.20.1 IMPOUNDMENT AUTHORIZED

(1) Any animal which is found by an Animal Control Officer to be in violation of this chapter, may be impounded and confined in a humane manner until reclaimed by its owner or otherwise disposed of in accordance with this chapter.

(2) Impounded animals, except those suffering from an injury or physical condition which causes the animal to suffer, shall be kept and maintained by the Animal Shelter for the following state periods:

(a) Impounded Animals: Three (3) days, not including Saturdays, Sundays and state recognized holidays.

(b) Quarantined Animals: Ten (10) days from the time the bite and/or scratch occurs.

(3) Animal Control Officers are authorized to go on or about private property to seize an animal. If an animal is seized, the Animal Control Officer shall issue a written notice of seizure and leave it with the owner or affix it to the premises from which the animal was seized.

(4) Impounded domestic pets, other than feral cats, shall be kept three (3) days, unless reclaimed by their owners. If the owner can be identified by means of a license tag, collar ID, tattoo, microchip, rabies tag or other means physically attached to or upon the body of the animal, the Animal Shelter shall immediately notify the owner by the most expedient means available of the impoundment of the animal, and the animal will be held for five (5) days. Animals not reclaimed by their owners within the established time periods and those not placed in suitable new homes after such time, may be humanely euthanized.

However, if an impounded animal has an injury or physical or medical condition, which causes the animal or other domestic animals to suffer, the Animal Shelter may immediately humanely euthanize the animal.

For the purposes of this chapter, the impoundment term shall commence on the date of delivery of the animal to the place of impoundment and not the date of notification of the owner. An owner desiring to reclaim an impounded animal shall comply with and pay such fees as provided by the terms and provisions of this chapter. If an animal has been impounded because of cruelty and neglect, the Animal Shelter may refuse to release the animal to its owner until the owner gives the Animal Shelter reasonable assurances that the conditions that constitute cruelty or neglect have been or will be corrected. These assurances may be verified by an Animal Control Officer before releasing the animal back to the owner. If an animal has been impounded for any violation of this chapter and such animal was adopted from the Animal Shelter or one of its offsite locations, the Animal Shelter may refuse to release such animal to the owner.

(5) Animals, (except quarantined animals) not reclaimed by their owners within the applicable time period, may thereafter be placed in suitable homes, or may be humanely euthanized.

§ 91.20.2 REMOVAL OF ANIMAL IN IMMEDIATE DANGER.

Any animal observed by an Animal Control Officer to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.

§ 91.21 ANIMAL SHELTER TO RECORD DATA ON IMPOUNDED ANIMALS.

Immediately after impounding any animal, the Animal Control Officer shall enter upon the records of the Animal Shelter the date of impounding, a description of the animal impounded, the location where the animal was impounded, and a notation of whether or not the animal had a license tag when impounded. A list of impounded animals shall be kept at the Animal Shelter.

§ 91.22 ANIMAL SHELTER TO GIVE NOTICE TO OWNER.

The Animal Shelter shall give notice to the owner of any animal wearing its license tag issued by the Animal Shelter at the time of impoundment to the address shown upon the license, and the owner of the impounded animal may redeem the animal by paying all the costs and charges assessed that have accrued up to the time of redemption.

§ 91.23 IMPOUNDING FEE; BOND.

(1) The Animal Shelter shall charge impounding fees, boarding charges and certain other fees pursuant to a schedule (see attached schedule) approved by the Mayor and Common Council of the city. The fees shall be collected by the Animal Shelter, or by its fiscal agent and deposited with the City Controller.

(2) The owner of an animal that has been impounded under this chapter may prevent disposition of the animal by the Animal Shelter caring for the animal by posting, not later than three (3) days after the animal has been impounded, a bond with the Animal Shelter in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than five (5) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the Animal Shelter may determine disposition of the animal. If the owner of an animal impounded under this section is found guilty or signs an agreement with conditions of an offense under this chapter, the owner shall forfeit the bond to the Animal Shelter to reimburse the Animal Shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this chapter, the Animal Shelter may still euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(3) If the owner requests, the court or the Animal Control Authority, having jurisdiction of criminal charges filed under this chapter or IC 15-5-12 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-5-12 has occurred. If the court determines that probable cause does not exist, the court may order the animal returned to its owner, and the return of any bond posted by its owner.

§ 91.24 REDEMPTION OF IMPOUNDED ANIMAL.

(1) The owner of an animal, or any person authorized in writing by said owner of any animal, may redeem the animal by paying all the costs and fines assessed that have accrued up to the time of making the redemption, plus the license fee for the animal, if required. Any animal not claimed by an owner, in accordance with the time periods described in this chapter, shall become the property of the Animal Shelter and may be disposed of in any manner as is in accordance with law.

(2) A request or application for redemption, under oath or affirmation, must be filed by the owner, if at all prior to the expiration of the impoundment term. If the owner cannot be identified, the Animal Shelter may request reasonable proof of ownership as a condition for the release of the animal. For purposes of this section, proof of ownership may include bills of sale; photos depicting the animal and the owner, vet records with owners name and/or similar evidence. In the event of the existence of a controversy pertaining to the ownership or right of possession of an impounded animal, the Animal Shelter may refuse redemption except upon the order of a court of competent jurisdiction.

(3) Any animal impounded, such animal may be released only upon the application for redemption and after being fitted with a microchip, to facilitate future identification of the animal and owner. Any animal impounded two (2) times within a twelve (12) month period, such animal may be released only upon application for redemption and conditioned upon the spay/neuter of the animal. The cost of either such procedures shall be paid by the owner of the animal pursuant to a schedule approved by the Mayor and Common Council of the city (see attached fee schedule). The Animal Shelter may release any animal at their discretion without an application for a microchip or spaying/neutering.

(4) Any animal deemed to be suffering with extreme pain due to possible injury or apparent disease may be humanely euthanized before the holding period has expired.

Statutory reference:

Prohibited methods of destruction, see IC 15-5-17-1

EUTHANASIA AND DISPOSAL OF ANIMALS

§ 91.25 EUTHANASIA AND DISPOSAL OF PRIVATELY OWNED ANIMALS.

The Animal Shelter shall have the ability to charge the owner of any animal certain fees to euthanize and dispose of said animal, in accordance with a schedule (see attached fee schedule) approved by the Mayor and Common Council of the city.

DANGEROUS ANIMALS

§ 91.35 DANGEROUS ANIMALS.

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

DANGEROUS ANIMAL.

(1) Any animal which constitutes a physical threat to human beings or other domestic animals by virtue of a known propensity to endanger life by unprovoked assault or bite or scratch so as to cause serious bodily harm; or

(2) Any animal that approaches a human being upon the streets, sidewalks, or any public grounds in a vicious or terrorizing manner or an attitude of aggression when unprovoked, or;

(3) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of a human being or domestic animal; or

(4) Any animal which bites, inflicts injury to or otherwise attacks a human being or domestic animal without provocation on public or private property; or

(5) Any animal which scratches, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or

(6) Any animal which behaves in such a manner that the owner therefore knows or should reasonably know that the animal possesses a tendency to attack, bite or scratch a human being or

(7) Any animal certified by a licensed or certified aggression dog trainer, evaluator or behaviorist after observation thereof, as posing a danger to human life if not kept in a manner required by this chapter upon the basis of behavioral probability; or

(8) Any animal that cannot be vaccinated against rabies with an approved rabies vaccine, and any animal which has no established rabies quarantine observation period.

(9) Exceptions. Any animal may not be deemed dangerous solely because;

(a) It bites, scratches, attacks or menaces:

(1) Anyone assaulting its owner. This shall not include any law enforcement officer attempting to subdue or affect the arrest or detain of a suspect.

(2) It has attacked or attempted to attack any person or animal that has tormented or abused it;

(b) It is otherwise acting in defense of any attack from a person or other animal upon its owner or any other person;

(c) It is defending its young and on its owners property;

(d) Anyone entering the owner's property to commit robbery, burglary, assault or other crime or entering a secured building without permission. Simple trespassing by a person onto private property may not be considered provocation for any attack.

(e) It is severely injured or incapacitated.

(f) Any animals which are employed by a police department in the State of Indiana or any animal which has been certified either nationally or by the State of Indiana for use in police work providing the animal is owned and in the possession of the person who initially trained the animal and for whom the certification was meant.

Penalty, see § 91.99

ENCLOSURES / RESTRAINT FOR DANGEROUS ANIMAL.

(1) Enclosures for dangerous animals shall be a covered fence or fabricated structure at least six feet in height, installed beneath ground level or in concrete or pavement to prevent digging under it, and with a gravel or concrete floor, sufficient size to allow the animal to stand, sit, and turn around in a natural position, and which allows for adequate exercise for the size/breed being kept. Enclosures shall be designed to prevent the entry of children or unauthorized persons. Such enclosures shall be securely locked with a combination or key lock which has been designed to prevent accidental or malicious

opening of the enclosure. The enclosure must contain proper shelter and a shaded area. The owners residence, other existing residence or storage building are not appropriate enclosures for a dangerous animal. Any structure may be subject to approval by the City Building Department and it is the responsibility of the owner to comply with building codes if required.

(2) Restraint for a dangerous animal shall be on the premises of the owner and confined in a secure enclosure as previously defined, or accompanied by the owner and securely muzzled and restrained with a leather, or nylon lead or leash having the tensile strength to restrain the animal and not to exceed six feet in length. The muzzle shall be made in such a manner that will not cause injury to the animal or interfere with the animal's vision or respiration, but shall prevent the animal from biting any human or other animal.

Penalty, see § 91.99

§ 91.36 DUTY OF OWNERS OF DANGEROUS ANIMALS.

(1) It shall be the duty of every owner of any animal or anyone having any animal in possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animal from injuries or damage which might result from the owners animals behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

(2) It shall be the duty of every owner of any animal that resides on rental property to notify the property owner if that animal has been declared dangerous

(3) It shall be the duty of every owner of any animal, or anyone having any animal in his/her possession or custody, to ensure that the animal is kept under control and that reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian and that:

(a) It is securely and humanely enclosed within a pen or fabricated structure as described in this chapter, out of which it cannot climb, dig, jump or otherwise escape on its own; and such enclosure must be securely locked at anytime the animal is left unattended; or

(b) In the event the animal is outside of its dwelling unit and enclosure, the animal shall be securely muzzled and restrained with a lead or leash and shall be under the direct control of its owner.

(c) Any animal placed under the Dangerous Animal section of this chapter, the animal is to be spayed or neutered at the expense of the owner.

(d) Any animal placed under the Dangerous Animal section of this chapter, the animal is to be microchipped at the expense of the owner.

(e) Any animal declared a dangerous animal shall purchase and maintain a current license for a dangerous animal.

(f) The owner of a dangerous animal shall display a sign on his/her property or premises warning that there is a dangerous animal on the premises. The sign shall be visible and capable of being read from a public right of way

(g) The owner shall immediately notify the Animal Shelter, the New Albany Police Department, or the Floyd County Sheriff if a dangerous animal is loose, and /or has attacked another animal or a human being, or has died.

(h) The animal may be impounded to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any Animal Control Officer is hereby empowered to seize and impound any dangerous animal whose owner fails to comply with the provisions hereof, subject to the right of such owner to contest the seizure or impoundment, as provided in this chapter, in Floyd County Court. The animal will be retained by the Animal Shelter during the pendency of any such proceeding if the owner posts a bond pursuant to section ss. 91.23 of this chapter, and the Animal Shelter shall have the power to dispose of any such animal prior to the termination of any court proceedings if no bond is posted or the bond is allowed to lapse, in accordance with that section of this chapter.

(i) In the event that any animal previously placed under the Dangerous Animal section of this chapter is found running at-large or in violation of this chapter, the animal will be impounded by an Animal Control Officer and euthanized.

(j) Any owner of an animal declared as dangerous shall not sell, transfer, give away or use other form of disposition of the animal other than surrender the animal to the Animal Shelter.

(k) Any owner of an animal declared as dangerous shall request authorization from the Animal Shelter to change the location of the animal. The new location, if authorized, shall comply with the requirements of this chapter.

(l) In the event that the owner of the animal refuses to surrender the animal to an Animal Control Officer, the Animal Control Officer may request a warrant to seize the animal upon execution of the warrant.

Penalty, see § 91.99

ENFORCEMENT

§ 91.38 ENFORCEMENT.

(1) It shall be lawful for any Animal Control Officer to canvass any dwelling unit, business, organization and institution for the purpose of ascertaining compliance with any section of this chapter and/or any state law pertaining to animals.

(2) It shall be lawful for any Animal Control Officer to go upon private property to inspect the condition of any animal or investigate any violation of this chapter and/or any state law pertaining to animals.

(3) It shall be lawful for any Animal Control Officer to inspect any dwelling unit, business, organization and institution with the consent of any owner or occupant, or by administrative or criminal search warrant, for the purpose of an investigation of any violation of this chapter and/or state law pertaining to animals.

(4) It shall be lawful for any Animal Control Officer to go onto private property to seize any animal; with the consent of any owner, caretaker or occupant of the property; or pursuant to the sections of this chapter; or with an order of a court of competent jurisdiction in this state, or for any violation of this chapter and/or state law pertaining to animals that causes an Animal Control Officer to believe that the situation endangers the health or well-being or is a life threatening condition for such animal or such animal needs to be removed for humane reasons and/or required immediate care or veterinary treatment or such animal poses a threat to public health or safety.

(5) It shall be lawful for any animal that is found by an Animal Control Officer to be running at-large, stray, public nuisance, inhumanely or cruelly treated, neglected, has bitten/scratched another animal or human being, is being kept in conditions which violate this chapter or is posing imminent, serious threat to human beings or other domestic animals, may be impounded at the Animal Shelter or any other place appropriate for the holding of animals in a humane manner until released to the owner or agent. The Animal Shelter may refuse to release any animal to its owner until the owner comes into compliance with this chapter. In addition to impoundment under this section, the owner may face penalties pursuant to §91.99 of this chapter.

§ 91.38.5 POWERS OF ANIMAL CONTROL OFFICERS

(1) Animal Control Officers have the power to issue citations to people accused of violating this chapter in accordance with its provisions regarding enforcement procedures.

(2) Animal Control Officers also have the power to enforce any state laws or regulations regarding the use of animals in agriculture, cruelty to animals, or animal disease prevention and care. Any violation of state law must be referred to the office of the Floyd County Prosecutor.

Penalty, see § 91.99

§ 91.39 CUSTODIAL LIABILITY.

In the event that the owner of any domestic animal is a minor, the custodian, parent or guardian legally responsible for such minor shall be liable for all violations of this chapter

Penalty, see § 91.99

§ 91.40 DESTRUCTION OF IMPOUNDED ANIMALS.

(1) No animal shall be destroyed within three (3) days of being impounded unless necessary to prevent or stop an attack upon a person or another animal, or for humane reasons related to sickness or injury of the animal, or as otherwise provided by law.

(2) An impounded animal shall not be destroyed pending an owner's appeal of a Court Order of Destruction. The Animal Control Officer shall have the burden of proving that the animal should be destroyed pursuant to this chapter.

Penalty, see § 91.99

§ 91.41 ANIMAL CONTROL AUTHORITY

The Animal Control Authority was established by an Inter-local Cooperation Agreement between the County of Floyd and the City of New Albany on 20th of May 1999 pursuant to the provisions of I. C. 36-1-7 et seq. and all the terms and conditions contained therein are affirmed and incorporated by reference herein.

(1)The Animal Control Authority may uphold or reverse a decision made by an Animal Control Officer declaring that an animal is a public nuisance or dangerous animal as defined by this chapter.

(a) If such a decision is upheld the Animal Control Authority may place the owner of the animal on probation for a period of time determined by the Animal Control Authority, which is deemed in the best interest of the animal and the community.

(b) The Animal Control Authority may place restrictions on the owner during the period of probation that are deemed in the best interest of the animal and the community.

(2) Any and all appeals for permits or revocation of permits within this chapter may come before the Animal Control Authority for hearing.

(3) These hearings shall be recorded on standard cassette tapes or any similar technology. Transcripts of these hearings may be made at the expense of any person seeking review of the hearings.

(4) Appeals from the determinations of the Animal Control Authority may be perfected to the Floyd Circuit Court in accordance with, and subject to the procedures and deadlines set out in, the provisions of the Indiana Administrative Code regarding administrative appeals.

§ 91.41.5 MEETINGS WITH ANIMAL CONTROL AUTHORITY

(1) The Animal Control Authority may, at its sole discretion, meet with any person suspected of violating this chapter for the purpose of informal negotiations to determine any penalties or establish a plan to remedy violations. People accused of violating this chapter may also request a conference with the Animal Control Authority to resolve any claim of violation. These negotiations shall be conducted informally, for the purpose of peaceful resolution of claimed violations of the chapter.

(2) Meetings conducted under this section shall be entitled to the evidentiary privileges afforded to settlement negotiations under Indiana law.

(3) Unless an agreement is arrived at, no representations made by any party shall continue to bind that party should any official or judicial proceeding be undertaken to enforce this chapter.

(4) Allegations of violations of state criminal law must be referred to the Floyd County Prosecutor.

§ 91.42 RESOLUTION AND SETTLEMENTS

(1) The Animal Control Authority and the accused person may enter into a settlement agreement regarding the matters alleged in the report of the Animal Control Officer. Such a settlement agreement may provide for:

(a) Remedial actions to be undertaken by the accused; and/or

(b) A time table by which such remedial actions must be performed; and/or

(c) The waiver of fines, penalties, and other sanctions available under this chapter.

(2) A settlement agreement entered into under this section must be reduced to writing and signed by the person claimed to have violated the ordinance or his/her representative, parent, or legal guardian; and the Animal Control Authority or its representative.

(3) A settlement entered into under this section is binding upon all the parties and their heirs, successors, and assigns.

§ 91.43 JUDICIAL ENFORCEMENT

(1) If no settlement agreement is reached, or any settlement agreement is breached by the person responsible for the animal; or if the Animal Control Authority decides in its sole discretion that a settlement conference would be unhelpful, or that a situation exists that requires immediate action, the Animal Control Officer may bring judicial proceedings to enforce this chapter.

(2) Judicial proceedings shall be brought by the City of New Albany Attorney or his designee.

(3) Fines, judgments, and injunctive relief against violation of this chapter may be sought in any such judicial proceedings, and any other remedies available to the Animal Control Authority in law or equity.

§ 91.44 SAVINGS CLAUSE

This ordinance and the various parts, sections, sentences, phrases, and clauses hereof, are hereby declared to be severable. If any part, section, sentence, phrase, or clause is judged unconstitutional or invalid, it is hereby provided that the remainder of this ordinance /chapter shall not be affected thereby.

§ 91.45 REPEAL OR AMEND

This ordinance /chapter repeals Chapter 91, G-94-195, passed 8-2-94, and G-89-156, passed 1-19-89, and G-96-162 passed 12-23-96 previously passed by the Common Council of the Civil City of New Albany.

§ 91.99 ISSUANCE OF CITATIONS; VIOLATION NOTICES.

(1) In addition to, or in lieu of impounding an unrestrained or stray animal or for any other violation of this chapter, any Animal Control Officer may issue a citation to the owner or caregiver of such animal specifying the section or sections of this chapter so violated and identifying the specific nature of the violation. A person who receives a citation has twenty-four (24) hours to correct the violation or he/she may be subject to additional penalties or the animal may be subject to impoundment as provided in this chapter.

(2) Upon complaint and execution by any citizen of a sworn affidavit that said affiant has actual knowledge that any section of this ordinance has been violated, an Animal Control Officer may constitute reasonable suspicion for an investigation.

(3) A first offender in violation of any provision of 91.01, 91.02.5 through 91.11, and 91.15 through 91.17 shall be fined not less than \$50 no more than \$200. For any second or subsequent violation of 91.01, 91.02.5 through 91.11, and 91.15 through 91.17 any provision of a person shall be fined not less than \$100 nor more than \$250.

(4) A first offender in violation of any provision of 91.35 through 91.40 shall be fined not less than \$100 nor more than \$250. In the event that any animal previously placed under 91.35 through 91.40 is found in violation of this chapter, the animal will be impounded by an Animal Control Officer and euthanized.

(5) Fines and penalties collected pursuant to this chapter shall be collected, pursuant to a schedule (see attached schedule) approved by the Mayor and Common Council of the city. The fees shall be collected by the Animal Shelter, or by its fiscal agent and deposited with the City Controller and shall be retained in the non-reverting fund Animal Control Runs Fund (Ord. G-05-12, passed 3-3-05), excepting fees collected under ss.91.07, ss.91.10, ss.91.12, ss.91.23(A), ss.91.24(C), ss.91.25, Adoption Fees, or GAP Program Fees.

ADOPTED THIS ____ DAY OF _____, 2007.

LARRY KOCHERT, PRESIDENT
COMMON COUNCIL, CITY OF NEW ALBANY

ATTEST" _____
MARCEY WISMAN, CITY CLERK

PRESENTED BY ME TO THE MAYOR THIS ____ DAY OF _____, 2007.
TIME: _____

MARCEY WISMAN, CITY CLERK

ACCEPTED AND APPROVED BY ME THIS ____ DAY OF _____, 2007.

JAMES GARNER, MAYOR
CITY OF NEW ALBANY

ATTEST: _____
MARCEY WISMAN, CITY CLERK