

INTRODUCED: 05/04/2009

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillor Speedy

DIGEST: amends the Code by adding provisions to clarify Chapter 531 regarding regulation of pit bulls, including registration and sterilization, better humane standards for the care and treatment of all dogs, and requiring all dogs and cats adopted out of the animal care and control system to be altered.

SOURCE:

Initiated by: Councillor Speedy

Drafted by: Councillor Speedy

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____ Date: April 30, 2009

GENERAL COUNSEL COMMENTS: The sponsor has been advised of several issues with the language of this proposal which raise issues about its enforcement.

CITY-COUNTY GENERAL ORDINANCE NO. , 2009

A GENERAL ORDINANCE amending the Revised Code of the Consolidated City and County by adding provisions to clarify Chapter 531 regarding regulation of pit bulls, including registration and sterilization, better humane standards for the care and treatment of all dogs, and requiring all dogs and cats adopted out of the animal care and control system to be altered.

WHEREAS, this "At Risk Dog" ordinance seeks to protect the pit bull from abusive, irresponsible owners through imposing greater responsibility toward their pet and humane care and treatment for all dogs; and

WHEREAS, this At Risk Dog ordinance seeks to protect people by humanely reducing the population of pit bulls in Indianapolis which, when properly enforced, will reduce the alarming increase and severity of related dog bites; and

WHEREAS, the breeds of dogs known as "pit bulls" including but not limited to any dog: 1) that is an American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier; 2) that displays the majority of physical traits of any one or more of these breeds; or 3) that exhibits those distinguishing characteristics of these breeds which substantially conform to the standards established by the American Kennel Club (AKC) or United Kennel Club (UKC), have been selectively bred for the purpose of bull baiting, bear baiting, and dog fighting for over a hundred years; and

WHEREAS, the pit bull has been a popular dog at various points in America's history. By the beginning of the 20th Century it was even called the Yankee terrier. The pit bull named "Petey" was featured in the "Our Gang" American short comedy films. Pit bulls also have a history of honorable service in the U.S. military and law enforcement; and

WHEREAS, the essential characteristics of the pit bull are strength, confidence, indomitable courage, high intelligence, tenacity and zest for life. This breed is eager to please and enthusiastic. Pit bulls require an owner who will carefully socialize and obedience-train the dog. This breed does very well in performance events because of its high level of intelligence and its willingness to work; and

WHEREAS, the pit bull, in the last 25 years, has become the most abused dog in Indianapolis and the United States. While drug dealers and dog fighters indiscriminately breed and then torture these dogs by forcing them to fight or guard drugs, the public, unaware of their suffering, often brand the pit bull a criminal; and

WHEREAS, as a result many animal shelters across America, including Indianapolis, house a disproportionate number of pit bulls. The Indianapolis Animal Care and Control facility's percentage of pit bulls hovers at about 50%; and

WHEREAS, most pit bull puppies grow up to become a reflection of both their owners' personality and the care and training they receive. Some irresponsible owners and breeders have historically selectively bred pit bulls in order to increase their tendencies to engage in behaviors that are greatly valued in the fighting ring, including the ability to initiate in a surprise attack, inflict massive damage to their opponent, withstand the infliction of great amounts of pain, and maintain a tenacious attack for a long period of time, fighting to the death; and

WHEREAS, the tendencies described above increase the likelihood that an abused pit bull will attack, seriously injure, or kill its victim, which makes these breeds uniquely more dangerous, even to their owners, as compared to other breeds of dogs; and

WHEREAS, there has been an alarming increase across the nation and in the area of the consolidated City of Indianapolis and County of Marion of attacks by abused pit bulls that has resulted in the infliction of serious bodily injury. In Indianapolis in 2007 and 2008, as a percentage of dog bites overall, bites from pit bulls are larger than any other breed and have been increasing; and

WHEREAS, breed-specific laws have become a response, sometimes knee-jerk, to the growing public safety issue associated with irresponsible owners and indiscriminate breeding; and

WHEREAS, the At Risk Dog proposal deems breed specific bans unfair to responsible owners and unwise to municipalities intending to manage public safety effectively; and

WHEREAS, increasing the civil and/or criminal liability of the owners of these breeds after an attack would have little deterrent effect upon those owners who are irresponsible, as they, by definition, lack care for consequences, and therefore present the greatest risk of engaging in dangerous, negligent or reckless management techniques of their pit bulls; therefore, this Council determines that a program designed to react after a serious attack is not as preferable as a policy that also provides a credible method to prevent such attacks; and

WHEREAS, the mere possession of pit bulls can pose a significant threat to the health, welfare, and safety of our citizens when an irresponsible owner is involved; and

WHEREAS, reducing the population of pit bulls is an effective, humane way to protect the citizens of Indianapolis and Marion County; and

WHEREAS, the Council believes, after balancing the interests involved, that it is necessary to regulate with greater responsibilities such as registration and sterilization for pit bulls in order to protect human health, welfare and safety within the City of Indianapolis.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 531 of the Revised Code of the Consolidated City and County be, and is hereby, amended by deleting the stricken-through text and inserting the underlined text, to read as follows:

ARTICLE I. GENERAL PROVISIONS

Sec. 531-101. Definitions.

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

AKC means the American Kennel Club.

Animal means any living, nonhuman vertebrate creature.

Animal care and control division means the animal care and control division of the department of public safety.

Article III Designation means a designation by the administrator of the animal care and control division, or his or her designee, that a dog is dangerous or vicious, or a determination that a dog is an at-risk dog..

At large means not confined without means of escape in a pen, corral, yard, cage, house, vehicle or other secure enclosure, unless on a leash and under the control of a competent human being.

At-Risk Dog means a pit bull, defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club (AKC) or United Kennel Club (UKC) for any of the above breeds

Attack means aggressive behavior by an animal that involves repeatedly biting or shaking its victim.

Cable run means a metal cable that is mounted aboveground at a designated height to two (2) stationary objects for the purpose of attaching a pulley system that moves from one end of the cable to the other and to which a dog is tied or secured by means of a rope, chain, or cable attached to the dog's collar or harness.

Colony means a group of one (1) or more free-roaming cats, whether unmanaged or managed.

Colony caretaker means a person who provides food, water and shelter for free-roaming cats in a managed colony.

Crime prevention dog means and includes a dog which is trained and used by its owner or keeper primarily for the protection of persons or property, or both.

Dangerous dog means a dog that has been designated as dangerous pursuant to the standards and administrative procedures identified in this chapter or that has been designated as dangerous or vicious pursuant to similar standards and procedures in another jurisdiction.

Dangerous animal means any animal that:

- (1) Would constitute a danger to human life or property if it were not kept in the manner required by this chapter;
- (2) Has caused serious injury to a person without having been provoked by that person;
- (3) At a place other than its owner's or keeperskeeper's property has:
 - a. Chased or approached a person in a menacing fashion or apparent attitude of attack; or
 - b. Attacked another domestic animal; or
- (4) Because of its training or behavior, is capable of inflicting physical harm or death to humans.

Direct point chaining means attaching an animal directly to a stationary object by means of a rope, chain, or cable attached to the dog's collar or harness but does not include temporary restraint of a dog for purposes of vehicular transport.

Dog means and includes animals of the *Canis familiaris* species, and hybrids of a-*Canis familiaris* and any other member of the *Canis* genus, including wolves.

Domestic animals means rabbits, cattle, horses, ponies, mules, donkeys, jackasses, llamas, swine, sheep, goats, dogs, cats and poultry.

Electronic containment device means a transmitter/receiver system for the confinement of dogs which consists of (1) a boundary wire that emits a radio signal, and (2) a battery-operated electronic

device on the dog's collar which receives the radio signal and emits an audible warning beep and a corrective electrical stimulus as the dog approaches the wire.

Exposed to rabies means ~~an animal has been exposed to rabies if it has~~having been bitten by or been in contact with any animal known or reasonably suspected to have been infected with rabies.

Free-roaming cat means any homeless, stray, wild or untamed cat.

Kenel means a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both. For purposes of this chapter, kennel shall not include a facility in or adjoining a private residence where dogs or cats are kept for the hobby of the owner, lessee or other occupant of the property using the animals for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the property, ~~and~~; an occasional sale of pups or kittens by the owner, lessee or other occupant of the property shall not make such property a kennel for the purposes of this chapter.

Law enforcement animal means an animal that is owned or used by a law enforcement agency for the purpose of aiding in the detection of criminal activity, ~~enforcement of~~enforcing laws, ~~the apprehension of~~apprehending offenders and ensuring the public welfare.

Managed colony means a colony of free-roaming cats that is registered with the animal care and control division or its designee and is maintained by a colony caretaker using trap, neuter, return methodology.

Monitored means the animal or dog:

- (1) Is controlled by means of a leash or other device held by a competent person, subject to the provisions of sections ~~531-404~~107, 531-201, 531-322 and 531-728, which animal or dog is sufficiently near the owner or handler as to be under his or her direct control and is obedient to that person's command;
- (2) Is on or within a vehicle being driven or parked; or
- (3) Is confined as required by this chapter.

Nonbite exposure means and includes scratches, abrasions, open wounds or mucous membranes contaminated with saliva or other potentially infectious material from a rabid animal.

Own means to keep, harbor or have custody, charge or control of an animal, and ~~owner~~Owner means and includes any person who owns an animal; however, veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of this Code, who temporarily keep animals owned by, or held for sale to, other persons shall not be deemed to own or be owners of such animals, but rather to be keepers of animals, and colony caretakers of managed colonies of free-roaming cats shall not be deemed to be owners or keepers of such animals.

Party means the city and respondents.

Person means and includes any individual, corporation, partnership or other association or organization, but shall exclude the following for purposes of section ~~531-404~~201:

- (1) Police officers, federal or state armed forces, park rangers, game wardens, conservation officers and other such governmental agencies, with respect to actions which constitute a discharge of their official duties; and
- (2) An individual, partnership, corporation or other association, organization, or institution of higher education, which is registered as a research facility with the United States Secretary of Agriculture under 7 USC § 2131 et seq., commonly known as the "Animal Welfare Act," while engaged in the course of their performance as such.

~~*Provoke* means the infliction of bodily harm on the animal or another person, or conduct that constitutes~~ *Provocation or provoke* means causing an animal to bite or attack by:

- a. substantial step toward the infliction of bodily harm on the animal or another person.— Any intentional or accidental act of pulling, pinching, squeezing, kicking, hitting or striking the animal with an object or a part of a person's body, unless the person is responding to an attack or an immediate threat of attack by the animal as indicated by the animal's lunging, snarling or baring of its teeth;
- b. Any sudden motion toward the animal or any attempt or threat to kick, hit or strike the animal with an object or part of a person's body, unless the person is responding to an attack or an immediate threat of attack by the animal as indicated by the animal's lunging, snarling, or baring of its teeth;
- c. Any act of teasing or tormenting the animal;
- d. Any act of grabbing, touching or holding of the animal's young or any sudden motion toward the animal's young;
- e. Any act of holding, kicking, hitting, striking, or otherwise physically harming the animal's owner or other member of the animal owner's household;
- f. Entry into the animal's area of confinement without the owner's presence, provided that this definition does not apply if the animal is confined in a particular manner for the purpose of causing provocation to prevent legal access to the premises in violation of this chapter; or
- g. Any act of breaking and entering, or other unlawful entry, into the animal owner's residence, vehicle, or other property.

Public safety board means the board of public safety of the department of public safety.

Serious injury; for purposes of this chapter means any injury which results in a broken bone, lacerations severe enough to require multiple sutures, or to render cosmetic surgery necessary; or appropriate, or death.

Quarantining authority means the department of public safety, its contractors, agents, employees and designees, acting under directives and regulations of the Health and Hospital Corporation of Marion County or the state board of animal health.

Respondent means a person to whom notice of hearing is issued pursuant to an Article III Designation.

Shelter means the animal care and control facility located at 2600 South Harding Street in the City of Indianapolis.

Swivel means pivoting hardware that can be used in a trolley system to attach a cable run to a tether or a tether to a dog's collar or harness in order to minimize twisting and tangling of the tether.

Tether means a rope, chain, or cable that is attached to a dog's collar or harness for purposes of restraining the dog.

Trolley system means a method of restraining a dog which utilizes a cable run, swivel and tether attached to a dog's collar or harness.

UKC means the United Kennel Club.

Veterinarian means a person licensed to practice veterinary medicine in the state.

Vicious dog means a dog that has been designated as vicious pursuant to the standards and administrative procedures identified in this chapter or that has been designated as dangerous or vicious pursuant to similar standards and procedures in another jurisdiction.

Wild animal means and includes:

- (1) A Class III wild animal for which a state permit is required under ~~340312~~ IAC ~~3-49-11-8~~ and/or IC 14-22-26; and
- (2) A venomous snake, poisonous amphibian, or other large reptile.

Sec. 531-102. Animals at large prohibited; penalties.

(a) An owner or keeper of an animal commits a violation of the code if that animal is at large in the consolidated city and county.

(b) Except as provided in subsection (c) of this section, section 531-501 or section 531-727, the first violation in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the code. All subsequent violations in a twelve-month period are subject to the enforcement procedures provided in section 103-3 of the Code and a fine of not less than one hundred dollars (\$100.00) per violation.

(c) If, while the animal is at large in violation of this section at a location other than its owner's or keeper's property, it:

- (1) Attacks another animal; or
- (2) Chases or approaches a person in a menacing fashion or apparent attitude of attack;

then the violation shall be subject to the enforcement procedures and penalties provided in section 103-3 of the Code, and the fine imposed shall not be less than two hundred and fifty dollars (\$250.00), or five hundred dollars (\$500.00) if another animal or person is injured as a result of the animal's actions.

Sec. 531-103. Confinement of female animals in heat.

The owner or keeper of any female animal in heat kept in the consolidated city and county shall confine the animal within a secure enclosure and in such a manner as to prevent it from becoming a nuisance.

Sec. 531-104. Animals causing nuisance prohibited.

(a) It shall be unlawful for a person to own or keep any animal which by frequent or habitual howling, yelping, barking, screeching, other vocalization or otherwise shall cause serious annoyance or disturbance to persons in the vicinity.

(b) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00); subsequent or continued violations may also subject the owner to impoundment of the animal by a person having authority to impound such an animal.

Sec. 531-105. Keeping swine.

It shall be unlawful for a person to keep swine on premises in the consolidated city and county, unless such premises are stockyards, slaughterhouses, or other premises where the keeping or raising of livestock is permitted by county zoning ordinances.

Sec. 531-405,106. Keeping horses, ponies, mules, donkeys, jackasses, and llamas.

It shall be unlawful for a person to own, keep, or breed a horse, pony, mule, donkey, jackass, or llama in the consolidated city and county on premises which measure less than eight thousand (8,000) square feet in a lot area per animal, unless such premises are registered as a stable under Chapter 836 of this Code.

Sec. 531-406,107. Domestic animals in vehicles.

(a) It shall be unlawful to place or confine a domestic animal in such a manner that it must remain in a motor vehicle, trailer or pet carrier under such conditions for such periods of time as may endanger the health or well-being of the animal due to heat, lack of food or water, or any circumstances which might cause suffering, disability, or death.

(b) It shall be unlawful for any domestic animal to ride in the bed of a pickup truck on public streets, highways and/or rights-of-way unless the animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.

Sec. 531-108. Lost or stray domestic animals.

(a) Persons finding a stray domestic animal are to notify the animal care and control division within forty-eight (48) hours. At the discretion of the administrator or his or her designee, the animal may be kept by the finder and a found report left with the division, to enable the finder an opportunity to return the animal to its rightful owner.

(b) Upon demand by the animal care and control division, any found animal will be taken to an appropriate facility and scanned for an identifying microchip.

(c) Persons finding an animal are obligated to comply with all the rules and regulations of this chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.

(d) With the exception of the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care and control division, the finder will be considered the found animal's owner for purposes of this chapter only after the animal is in the finder's custody for thirty (30) continuous days.

Sec. 531-109. Report of vehicular collision with domestic animal.

A person whose vehicle causes injury or death to a domestic animal in the consolidated city and county shall stop at once, assess the extent of the injury to the extent that it is safe to do so, and immediately notify the animal's owner, if known, or the animal care and control shelter, either directly or through a local law enforcement agency, ~~together with~~. A person whose vehicle causes such injury or death shall provide a description of the animal struck, the location of the striking and an estimate as to the condition of the animal after being struck, along with the rabies tag number of the animal, if it can safely be ascertained. Such person shall not be required to report his or her name, as the only ~~purpose~~ purposes of this requirement ~~is~~ are to aid the stricken animal and notify its owner, if any.

Sec. 531-407,110. Custody and disposition of dead animals.

It shall be unlawful for a person to allow the body, or parts thereof, of any dead animal to be kept, held, or disposed of in violation of this section, as follows:

(1) No public or private carrier shall either transport any dead animal through or into the consolidated city and county, or allow it to remain in or on any of its cars, vehicles, tracks or places controlled by it, ~~in either instance~~ longer than five (5) hours;

(2) No person who operates a slaughterhouse, butcher shop or other place in the consolidated city and county shall permit any parts ~~of or~~ offal of dead animals that are not fit and intended for use as food to accumulate or be kept on such premises for over twenty-four (24) hours after being received, or after the death of such animal;

(3) No person shall skin, dismember, dissect, cut up or dispose of the body of a dead animal, or any parts thereof, in the consolidated city and county, unless the person is regularly engaged in such business of killing and disposing of such animals for use as food or otherwise, and is so authorized by law, or does so for the person's own use; and

(4) No person shall possess, keep, use or dispose of anywhere in the consolidated city and county, a dead animal or parts thereof, or offal of a live animal in any manner that creates offensive odors or sights, or constitutes a public nuisance which affects health and comfort in any respect.

Sec. 531-408.111. Disposition of dead animals by the city.

The city department of public works upon request may provide to persons or entities the service of picking up dead animal bodies and body parts and the lawful disposition of them. When the city department of public works picks up dead animal bodies or parts from places other than the city streets and rights-of-way, it shall charge a fee of six dollars (\$6.00) per separate body part for this service.

Sec. 531-409.112. Owner responsibility for animal attacks.

(a) An owner or keeper of an animal commits a violation of the ~~code~~Code if that animal attacks and injures a person who did not provoke the animal prior to the attack.

(b) It shall be a defense to prosecution under this section if:

(1) The attack occurred in an enclosure in which the animal was confined without means of escape, there was posted at the main entrance of the enclosure a notice to beware of the animal, and the person attacked entered the enclosure without invitation; or

(2) The person was attacked during the commission or attempted commission of a criminal act on the property of the owner or keeper of the animal.

(c) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than five hundred dollars (\$500.00). If the violation results in the animal causing serious ~~bodily~~ injury to any person, the court upon request shall order the animal forfeited and/or destroyed.

(d) The liability imposed by this section shall not reduce, substitute for or in any manner be deemed to be in derogation of the rights accorded victims of dog bite injury or property damages as provided for at IC 15-5-12, et seq. or by common law.

Sec. 531-113. Warning signs required.

(a) The owner or occupant of premises where a wild or dangerous animal is kept shall post, at each entrance to such premises, conspicuous signs which state, "WARNING: WILD OR DANGEROUS ANIMAL. FOR FURTHER INFORMATION CALL (the telephone number of the owner or occupant of the premises)."

(b) The owner or occupant of premises where an at-risk dog is kept shall post, at each entrance to such premises, conspicuous signs which state, "REGISTERED AT-RISK DOG. FOR FURTHER INFORMATION CALL (the telephone number of the owner or occupant of the premises), or other information that the administrator of animal care and control, at his discretion, shall require.

(c) The owner or occupant of premises where a crime prevention dog is kept shall post, at each door of the premises accessible to the dog, conspicuous signs which state, "WARNING: A CRIME

PREVENTION DOG IS GUARDING THIS PROPERTY. FOR FURTHER INFORMATION CALL (the telephone number of a person able to control the dog)."

Sec. 531-114. Penalties.

Except as otherwise provided in this chapter of the Code, a person who violates any provision of this article shall be punished as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than one hundred dollars (\$100.00) except as provided in section 531-104(b).

ARTICLE IV-II. CARE AND TREATMENT

Sec. 531-401-201. General requirements for animal care and treatment.

(a) Every owner or keeper of an animal kept in the consolidated city and county shall see that such animal:

- (1) Is kept in a clean, sanitary and healthy manner and is not confined so as to be forced to stand, sit or lie in its own excrement; the person(s) responsible for animal(s) shall regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact;
- (2) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water ~~where appropriate~~adequate for the animal's size, age and physical condition, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely;
- ~~(3) Shall not be tethered by use of a choke collar, or on any collar too small for the size and age of the animal, or by any rope, chain or cord directly attached to the animal's neck, or by a leash less than twelve (12) feet in length, or by any tether or leash without swivels on both ends, or of such unreasonable weight as to prevent the animal from moving about freely;~~
- (3) Is tethered only with a tether that is attached to a properly fitting collar or harness worn by the animal, with enough room between the collar and the animal's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering. The tether and cable run must be of adequate size and strength to effectively restrain the animal. The size and weight of the tether must not be excessive, as determined by the animal care and control division, considering the age, size, and health of the animal. The cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level. The length of the tether from the cable run to the animal's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the animal to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation of the animal, and to prevent the tether from becoming entangled with other objects or animals;
- (4) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;
- (5) ~~Shall provide the~~is provided reasonably necessary medical care, in addition to the required rabies vaccination, which shall include recommended vaccinations as required by accepted veterinary standards, and if diseased or injured, or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease; and
- (6) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the city department of public safety and in effect from time to time.

(b) It shall be unlawful for a person to beat, starve or otherwise mistreat any animal in the city, or to fail to comply with any requirement of subsection (a) of this section.

(c) It shall be unlawful for any animal to be tethered between the hours of 11:00 p.m. and 6:00 a.m.; or to tether any un-sterilized dog for any period of time unless it is monitored by a competent adult for the duration of such tethering; or to tether or confine an animal at a vacant structure or premises for any purpose or time when it is not monitored by a competent adult who is present at the property for the duration of such tethering or confinement.

(d) In the discretion of the enforcement authority, as that term is defined in section 531-711 of this Code, a person who violates any provision of this section for the first time may be given written notice of the practices or conditions which constitute the violation, and the enforcement authority shall in such instance direct remedies to such person where appropriate and provide a time period of no longer than thirty (30) days within which to correct the violation(s). Failure of the person to correct the violations within the specified time period shall constitute prima facie evidence of violation of this section.

(e) A person who violates any provision of this section shall be ~~punishable~~punished as provided in section 103-3 of this Code; provided, however, the fines imposed for any such violations shall be as follows:

- (1) For the first violation, not less than twenty-five dollars (\$25.00); and
- (2) For the second or subsequent violations, not less than two hundred dollars (\$200.00), and the court upon request shall order forfeiture or other disposition of the animal involved. A judgment by the court which orders forfeiture or other disposition of the animal by the consolidated city and county or any third party shall include as a part of such judgment adequate provisions for the collection of costs of forfeiture or impoundment from the person found in violation.

(f) In addition, a person who violates any provision and their dog is impounded at the shelter of this section shall be required to provide documentary proof of public liability insurance of not less than \$1,000,000.00. If the animal is an at-risk dog, such insurance shall be maintained in effect for the life of the at-risk dog.

Sec. 531-~~402-202~~. Abandonment of animal.

It shall be unlawful for a person to abandon any animal on public or private property in the consolidated city and county, and a violation of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than two hundred dollars (\$200.00). Actions taken by colony caretakers in accordance with this chapter shall not be considered abandonment of an animal.

Sec. 531-~~403-203~~. Attempts to poison animal.

It shall be unlawful for a person to throw or deposit poisoned meat or any poison or harmful substance in any street, alley, marketplace or public place, or on any private premises, in the consolidated city and county for the purpose of destroying or injuring any animal.

Sec. 531-~~404-204~~. Animal fights.

It shall be unlawful for a person to incite, train to fight (other than a law enforcement animal or crime prevention dog) or set any animal to fighting another animal or to incite combat between animals and humans in the consolidated city and county. A person who violates this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than five hundred dollars (\$500.00).

Sec. 531-~~405-205~~. Enticement of another person's animal.

(a) It shall be unlawful for a person, not so authorized, to enter or invade the private premises of another person in the consolidated city and county to capture, entice, or take any animal out of the

enclosure or premises of the owner, or to seize an animal at any place while such animal is accompanied by its owner or keeper.

(b) Except as expressly authorized in this chapter, it shall be unlawful for a person to entice any animal away from the premises of the person who owns or keeps such animal in the consolidated city and county, or to entice an animal from a street, alley or public place in the consolidated city and county with the intent to deprive the owner of the animal's possession.

(c) It shall be unlawful for a person to bring into the consolidated city and county an animal for the purpose of its impoundment, or the collection of any fee or reward for its return, except as provided in this chapter.

Sec. 531-~~406~~-206. Interference with another person's animal.

It shall be unlawful for a person to feed, tease, ~~or tantalize, molest, or provoke~~ any animal in the consolidated city and county without the express consent of the animal's owner, if any, while the animal is on the owner's property or under the owner's control. It shall be unlawful under any circumstances to molest or provoke any animal in the consolidated city and county. A person who violates this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than fifty dollars (\$50.00).

Sec. 531-~~407~~-207. Animal traps; requirements and prohibitions.

(a) It shall be unlawful for a person to use, place, set or cause to be used, placed, or set any leg-hold trap or similar device upon any land or waters in the consolidated city and county.

(b) It shall be unlawful for a person to use, place, set or cause to be used, placed or set any snare, net or other device which causes the trapping or capturing of any animal in any manner by which the animal is not either captured painlessly or killed instantly upon any land or waters in the consolidated city and county.

(c) Subsections (a) and (b) of this section shall not apply to a trap placed on private property, where the trap is placed and maintained by the owner, the owner's guest or agent.

(d) It shall be unlawful for a person, having placed a lawful trap, snare or similar device in the consolidated city and county, to fail to inspect and empty it at least once during every twenty-four-hour period.

(e) It shall be unlawful for a person to remove an animal in the consolidated city and county from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

Sec. 531-~~408~~-208. Offensive use of animal.

It shall be unlawful in the consolidated city and county for a person willfully to deposit a live or dead animal upon public or private premises not owned by that person, or willfully to throw a live or dead animal or insect against any other person, or aid or abet another person in doing so.

Sec. 531-~~409~~-209. Animals not to be offered as novelties or prizes.

(a) It shall be unlawful for a person to sell, offer for sale, trade, barter or give away in the consolidated city and county any live animal, bird or reptile as a novelty, prize for, or as an inducement to enter a place of amusement; or offer such ~~vertebrate~~ animal as an incentive to enter any business establishment or enter into any business agreement whereby the offer was made for the purpose of attracting trade for business, other than establishments selling animals as their primary business.

(b) It shall be unlawful for a person to transport into the consolidated city and county any live animal, bird or reptile for any purposes prohibited by subsection (a) of this section.

(c) It shall be unlawful for a person to sell, offer for sale or otherwise dispose of any animal whose appearance has been artificially or chemically colored, sprayed or painted.

Sec. 531-440-~~210~~. Protection of birds; exception.

(a) It shall be unlawful for a person willfully to injure, molest, attack or disturb in any way a bird, or the nests, eggs, young or brood of birds, in the consolidated city and county; provided, however, this section shall not apply to nonmigratory pigeons, starlings or any birds declared or defined by any state law or consolidated city and county ordinance as a public nuisance.

(b) Whenever it appears, on complaint of residents, merchants, persons in business, owners or operators of structures or buildings, or citizens generally, or otherwise, that nonmigratory pigeons, starlings, or other birds constitute a public nuisance in any part of the consolidated city and county, the public safety board shall be authorized to use all necessary means to destroy the birds creating such nuisance, as follows:

- (1) The public safety board is authorized to eradicate pests under subsection (a) of this section with firearms and otherwise; where firearms are used for such purpose, it shall not constitute a violation of the Code which pertains to the discharge of firearms in the city or county; and
- (2) The public safety board is authorized to issue permits to persons in such instances and under such terms and conditions as it finds necessary for the public safety to dispose of any nonmigratory pigeons, starlings or other birds declared or defined by state law as a public nuisance, upon the payment of one dollar (\$1.00) by each person to the city controller, and any permit so issued shall be revocable at the will of the public safety board.

Sec. 531-444-~~211~~. Feeding birds.

It shall be unlawful for a person, except an employee of the city department of parks and recreation in the course of his or her employment, or with his or her express permission, to feed, scatter food or leave food of any type or kind in the parks, playgrounds, play fields, parkways, boulevards and streets of the consolidated city and county for any birds or fowl.

Sec. 531-412. Reserved.

ARTICLE II--~~I~~ DOGS AND CATS

DIVISION 1 IN GENERAL

Sec. 531-~~204~~-~~311~~. Application of article.

The provisions of this article shall be supplemental to the other provisions of this chapter which pertain to dogs or cats.

Sec. 531-~~202~~-~~312~~. Permanent identification of dogs and cats required.

(a) A person who owns a dog or cat in the consolidated city and county shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the owner of a lost or stolen dog or cat can be ascertained quickly and easily.

(b) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this Code, and shall be either by means of:

- (1) A microchip implanted in the dog or cat ~~or animal~~ which bears a registered identification number, and which can be read by a standard microchip scanner; or
- (2) A permanent tag attached to a durable collar worn at all times by the dog or cat, and bearing the owner's current name, address and telephone number.

(c) Each veterinarian or other person in the consolidated city and county who implants microchips as contemplated in this section shall, at an interval of not less than once each month, send to the animal care and control division the names, addresses, and phone numbers of the owners of the dogs and cats implanted, and the corresponding microchip identification numbers. Such records shall be available to the animal care and control division without court order.

(d) It shall be unlawful for a person to own a dog or cat three (3) months of age or older which is kept in the consolidated city and county, and which does not bear a permanent means of identification as provided in this section. A violation of this section shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code.

Sec. 531-203-~~313~~. Dog and cat curbing requirements.

(a) No person knowingly shall allow a dog or cat which is kept by that person to defecate or urinate on a public street, byway, municipally owned or public land or building, or upon private property, in the consolidated city and county without the prior permission of the owner of such property; however, if an animal defecates on property described in this subsection, the animal's owner or keeper promptly shall remove any feces to a waste container, or otherwise dispose of such material in a manner inoffensive to reasonable public sensibilities.

(b) Notwithstanding the provisions of subsection (a) of this section, the owner of a dog serving a vision-impaired person in an auxiliary ocular capacity or in any capacity to assist such person with a physical impairment may permit such dog to relieve itself on ground situated outside of pedestrian or vehicular traffic ways, and is relieved of the requirement to remove any feces to the extent such requirement is impractical for a person of such impairment.

(c) No person knowingly shall allow his or her dog or cat to disperse waste material placed for public or private collection upon any public street, or byway or right-of-way, or any municipally owned or public land or building, or upon private property.

(d) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than twenty-five dollars (\$25.00).

DIVISION 2 DOGS

Sec. 531-204. ~~Animals causing nuisance prohibited~~321. Minimum care of dogs.

~~(a) It shall be unlawful for a person to own or keep any animal which by frequent or habitual howling, yelping, barking, screeching, other vocalization or otherwise shall cause serious annoyance or disturbance to persons in the vicinity.~~Shelter.

~~(b) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00); subsequent or continued violations may also subject the owner to impoundment of the animal by a person having authority to impound such an animal.~~

Sec. 531-205. ~~Care for unmanaged colonies prohibited.~~

~~It shall be unlawful for a person to provide food, water or shelter to a colony of free-roaming cats, unless:~~

- ~~(1) The colony is a managed colony, registered with the animal care and control division or its designee; or~~
- ~~(2) The food, water or shelter is provided in conjunction with the implementation of trap, neuter, and return methodology as set forth in section 531-209 of this chapter.~~

- (1) Any dog that is habitually kept outside or repeatedly left outside unattended by an adult person shall be provided with a structurally sound, moisture-proof and windproof shelter large enough to keep the dog reasonably clean and dry.
- (2) A shelter which does not protect the dog from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section.
- (3) A dog's shelter and bedding and other accessible space shall be maintained in a manner which minimizes the risk of the dog contracting disease, being injured or becoming infested with parasites.

(b) Nutrition.

- (1) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with clean, fresh, potable water adequate for the dog's size, age, and physical condition. This water supply shall be either free flowing or provided in a removable receptacle that is weighted or secured to prevent tipping.
- (2) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with wholesome foodstuff suitable for the dog's physical condition and age and in sufficient quantities to maintain an adequate level of nutrition for the dog.

(c) Exercise.

- (1) The enclosure or confinement area for a dog shall encompass sufficient usable space to keep the animal in good condition.
- (2) When a dog is confined by means of a tether and cable run, the trolley system shall be configured to allow access to the maximum available exercise area.
- (3) When a dog is confined outside by means of an enclosure or an electronic containment device, the following minimum space requirements shall be met:

<u>Size of Dog</u>	<u>Pen Size (1 dog)</u>	<u>(For Each Additional Dog)</u>
<u>Extra large (over 26 inches at withers or over 75 lbs.)</u>	<u>48 sq. ft.</u>	<u>24 sq. ft.</u>
<u>Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)</u>	<u>40 sq. ft.</u>	<u>20 sq. ft.</u>
<u>Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)</u>	<u>32 sq. ft.</u>	<u>16 sq. ft.</u>
<u>Small (12 inches or less at withers or not over 20 lbs.)</u>	<u>24 sq. ft.</u>	<u>12 sq. ft.</u>

- (4) The minimum confinement area required by this section shall not apply to commercial kennels or veterinary facilities.

Sec. 531-322. Confinement.

(a) General. Any person owning, possessing or keeping a dog shall keep the dog securely confined behind a fence or otherwise restrained upon the person's property by adequate means to prevent the dog's escape; or shall effectively control the dog, whether on or off the person's property, by means of a leash or other proper method of supervised restraint from which the dog cannot escape.

(b) Dog parks. Confinement of a dog in a fenced area designated by the Department of Parks and Recreation as a "bark park" shall be considered adequate confinement under this section if the dog owner or caretaker supervises the dog's activity and adheres to applicable parks rules and regulations.

(c) Confinement to prevent legal access. Dogs shall not be confined in any manner for the purpose of preventing legal access to public utility facilities or for the purpose of causing the dog to be provoked by visitors in areas accessible to and commonly used by visitors for legal access to the premises.

(d) Chaining. Direct-point chaining or tethering of dogs to a stationary object is prohibited. Dogs may be restrained by means of a trolley system, or a tether attached to a pulley on a cable run, if the following conditions are met:

- (1) Only one (1) dog may be tethered to each cable run.
- (2) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering a dog to a cable run.
- (3) There must be a swivel on at least one (1) end of the tether to minimize tangling of the tether.
- (4) The tether and cable run must be of adequate size and strength to effectively restrain the dog. The size and weight of the tether must not be excessive, as determined by the animal services officer, considering the age, size and health of the dog.
- (5) The cable run must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level.
- (6) The length of the tether from the cable run to the dog's collar should allow access to the maximum available exercise area and should allow continuous access to water and shelter. The trolley system must be of appropriate configuration to confine the dog to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation of the dog, and to prevent the tether from becoming entangled with other objects or animals.

(e) Electronic containment devices. An electronic containment device may be used as a primary containment measure if signs stating "pet contained by electronic device" or similar language using a trade name, are conspicuously posted at the front and back of the enclosed area for purposes of public notice. Such signs shall be a minimum of six (6) inches by eight (8) inches and one (1) of the signs shall be visible from the roadway or entry to the premises. The property owner is responsible for posting the signs in accordance with the Sign Ordinance, and the failure to post or maintain such signs is a violation of this section.

(f) Penalty, failure to confine. Conviction for failure to confine a dog in violation of this section shall result in a fine as follows:

(1) For a sterilized dog:

- a. The first violation within a one-year period shall result in a Twenty Five Dollar (\$25) fine.
- b. The second violation within a one-year period shall result in a Seventy-Five Dollar (\$75) fine.
- c. The third and each subsequent violation within a one-year period shall result in a One Hundred Dollar (\$100) fine.

(2) For an unsterilized dog:

- a. The first violation within a one-year period shall result in a One Hundred Dollar (\$100) fine, unless by time of sentencing for the violation, proof of sterilization of the animal has been

- produced, in which case the fine structure applicable to sterilized dogs in subsection (f)(1) herein shall apply.
- b. The second and each subsequent violation within a one-year period shall result in a Two Hundred Dollar (\$200) fine, unless by time of sentencing for the violation, proof of sterilization of the animal has been produced, in which case the fine structure applicable to sterilized dogs in subsection (f)(1) herein shall apply.
- c. The fine structure applicable to sterilized dogs in subsection (f)(1) herein shall also apply to unsterilized dogs too elderly or infirm to breed, as previously certified in writing as such at the time of the dog's licensing by a veterinarian licensed to practice within the state.

Sec. 531-206.323. Unlawful use of a dog.

- (a) It shall be unlawful for a person to make use of a dog in the commission or furtherance of any criminal act in the consolidated city and county.
- (b) A person who violates this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than one hundred dollars (\$100.00). Further, upon a finding of violation, the court upon request shall order the dog forfeited and/or destroyed.

DIVISION 3 DANGEROUS DOG, VICIOUS DOG, AND AT-RISK DOG DESIGNATION

Sec. 531-207. Domestic animals in vehicles.331Administrative Adjudication Provided

- ~~(a) It shall be unlawful to leave a domestic animal unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.~~
- ~~(b) It shall be unlawful for any dog or cat to ride in the bed of a pickup truck on public streets, highways and/or rights-of-way unless the animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.~~

It is hereby declared to be the policy of the city that Article III Designations may be subject to review in administrative proceedings as provided in this article.

Sec. 531-208. Lost or stray domestic animals332. Hearing requested; time limitation.

- ~~(a) Persons finding a stray animal are to notify the animal care and control division within forty-eight (48) hours. At the discretion of the division, the animal may be kept by the finder and a found report left with the division, to enable the finder an opportunity to return the animal to its rightful owner.~~
- ~~(b) Upon demand, by the animal care and control division, any found animal will be taken to an appropriate facility and scanned for an identifying microchip.~~
- ~~(c) Persons finding an animal are obligated to comply with all the rules and regulations of this chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.~~
- ~~(d) With the exception of the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care and control division, the finder will be considered the found animal's owner for purposes of this chapter only after the animal is in the finder's custody for thirty (30) continuous days.~~

Except where otherwise expressly provided, in order to exercise the right to an administrative review as provided in this chapter, the owner or keeper must submit a written request to the administrator of animal care and control division within ten (10) days following the issuance of the notice of an Article III

Designation. The request shall be delivered to the administrator by registered or certified mail, return receipt requested, or by personal service with a signed receipt.

Sec. 531-333. Hearing Officer designated.

(a) The Director of Public Safety shall designate a hearing officer who shall preside over and conduct the administrative review hearings in an informal manner, giving the owner, keeper, and any other person who has relevant information an opportunity to participate to the extent necessary to provide full consideration of all facts and issues. Nothing in this section shall automatically prohibit an individual who is an employee of the city or an independent contractor associated with the city from being appointed or serving as a hearing officer.

(b) A person must have a minimum of two (2) years of related experience to be appointed as a hearing officer.

(c) A hearing officer shall not preside over a hearing if the hearing officer believes he or she is subject to disqualification, or if it appears that the hearing officer is subject to disqualification, for:

- (1) Bias, prejudice, or personal interest in the outcome of a hearing;
- (2) Knowledge of a disputed evidentiary fact which might influence the decision;
- (3) Any cause for which a judge of a court may be disqualified.

Sec. 531-334. Notice of hearing.

(a) Whenever the administrator of the animal care and control division receives a proper request for an administrative review hearing of an Article III Designation from an owner or keeper, the hearing officer shall cause written notice to be served on the affected owner or keeper.

(b) The notice shall be served in the manner provided by this chapter, and shall contain the following information:

- (1) The date the notice is issued;
- (2) The date, time and place of the hearing;
- (3) The purpose of the hearing, including any adverse determination which could result therefrom;
- (4) Identification of any written materials which have been received by the administrator of the animal care and control division and may be considered at the hearing;
- (5) A statement that a person may be represented at the hearing by legal counsel; and
- (6) A statement that the hearing will be conducted as an administrative hearing in an informal manner and not subject to the strict rules of evidence or trial procedure.

Sec. 531-335. Decision of the hearing officer.

Following a hearing, the hearing officer shall cause written notice of his or her designation to be served on the owner in the manner provided by this chapter. A copy of a photograph of the dog in question shall be appended to every written decision. If the decision is to affirm the Article III Designation, the decision shall include the following:

- (1) The basis for the decision; and
- (2) A statement of the owner or keeper's right to appeal the decision to the Marion circuit or superior court, and the time limitations in which to do.

Sec. 531-336. Decision.

(a) Upon the conclusion of each hearing or within a maximum of five (5) working days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination of whether the dog should receive an Article III Designation.

Sec. 531-337. Written transcript of hearing; preparation and cost.

If requested by the Respondent prior to the hearing, the hearing officer shall arrange to provide a written transcript of the audio tape recording of the hearing. Respondent shall pay animal care and control the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which the hearing officer shall review and certify as to accuracy.

Sec. 531-338. Petition for review of decision; time limitation.

(a) A verified petition for review of the decision of a hearing officer, stating the alleged error and any factual or legal basis therefor, may be filed in the circuit or superior court of Marion County within thirty (30) days after the day on which the decision is rendered and recorded in writing. A party who does not file an appeal within this time period forfeits the right to appeal.

(b) Any party who files a verified petition for review shall within fifteen (15) days thereafter secure from the hearing officer a certified copy of the record of the hearing, and file the same with the clerk of the court.

(c) An extension of time within which to file the record may be granted by the court upon a showing of good cause, which shall include the petitioner's inability to obtain the certified copy of the record within fifteen (15) days.

(d) The failure of a party to file a certified copy of the record or to secure an extension of time therefor shall be cause for dismissal of the petition for review upon motion of any party of record.

Sec. 531-339. Dangerous or vicious dog designation.

(a) *Dangerous dogs.*

(1) *General.* It shall be unlawful for any person to keep within the consolidated city and county limits any dangerous dog, except in compliance with the provisions of this section.

(2) *Grounds for dangerous dog designation.* A dog is considered dangerous for purposes of this section if it:

a. Meets the definition of a dangerous animal pursuant to section 531-101; or.

b. Acts in a manner which the owner knows, or reasonably should know, is an indication that the dog is dangerous and is not merely being protective in a particular set of circumstances; or

c. Has been declared dangerous, or has been given some other designation, by another governmental body under circumstances that would meet the grounds for dangerous dog designation under the provisions of this ordinance.

(3) *Impoundment pending declaration.* Upon reasonable suspicion that a dog is dangerous and poses a serious threat to public health or safety, the administrator of animal care and control division, or appointed designee, may seek a search warrant, and/or a warrant to seize the dog for impoundment at the shelter pending the dangerous dog declaration process. The owner of the dog shall pay impoundment and kennel fees as required by Section 531-726.

(4) *Dangerous dog designation.*

- a. Designation. If the administrator of animal care and control division has cause to believe that a dog is dangerous, the administrator may find and declare such dog a dangerous dog.
- b. Notice. Within three (3) working days of declaring a dog dangerous, the administrator of animal care and control division shall give notice of the declaration and the reasons for it in writing to the person who owns, keeps, or otherwise maintains the dog. The notice shall inform the owner or custodian that a permit is required to keep such dangerous dog within the consolidated city and county limits.
- c. Opportunity to contest designation. The notice shall also inform the owner or custodian of the dog that he may request an administrative review hearing pursuant to section 531-331 et seq. seeking review of the determination, within ten (10) days from the issuance of the notice of dangerous dog declaration.
- d. Status pending hearing. Once notice of dangerous dog designation has been given, the dog shall be considered dangerous unless, and until such time as, the declaration is overruled. If an administrative hearing is requested, the owner shall not be required to obtain a dangerous dog permit unless, and until such time as, the declaration is upheld by the hearing officer.
- e. Hearing. Hearings required pursuant to this subsection shall be held no more than ten (10) working days from the date of receipt of the request.
- f. Compliance. If the person owning, keeping, possessing or otherwise maintaining the dog fails to request a hearing, or if the hearing officer and/or Court determine that the dangerous declaration stands, the owner or custodian shall comply with the requirements of this Section in order to keep such dog within the consolidated city and county limits.

(5) Permit required.

- a. A dangerous dog may be kept within the consolidated city and county limits only so long as the owner or custodian complies with the requirements and conditions in accordance with the dangerous dog permit.
- b. The owner or custodian shall pay an annual permit fee of one hundred dollars (\$100.00) for possession of a dangerous dog, in addition to all other required fees.

(6) Conditions for keeping a dangerous dog. The requirements and conditions for keeping or maintaining a dangerous dog within the consolidated city and county limits shall include:

- a. Confinement. All dangerous dogs shall be securely confined:
 - (i) Indoors, without means of escape; or
 - (ii) In an enclosed and locked pen or physical structure upon the premises of the owner. The pen or physical structure must have minimum dimensions of five (5) feet by ten (10) feet and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two (2) feet. The pen or physical structure must be capable of preventing the entry of the general public, including children, and must be capable of preventing the escape or release of the dog. Electronic containment devices shall not be used to confine dangerous dogs.
- b. Minimum care. All shelter and minimum care standards required by this chapter shall apply to dangerous dog confinement.
- c. Leash and muzzle. The owner of a dangerous dog shall not allow the dog to go outside of its kennel, pen or physical structure unless the dog is muzzled, restrained by a chain or leash sufficient to control the dog, and under the physical control of an adult. The muzzle must not

- cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or animal.
- d. Photograph identification. Within ten (10) days of the declaration of a dog as dangerous, the owner or custodian shall provide the administrator of the animal care and control division with two (2) digital-quality color photographs of such dog, clearly showing the color and approximate size of the animal, or shall make the dog available for photographing by the animal care and control division.
 - e. Microchip. The dog must be identified by means of a microchip that is injected under its skin by a licensed veterinarian and maintained as long as the animal is kept within the consolidated city and county limits.
 - f. Sterilized. The owner must provide documentary proof from a licensed veterinarian that their dog has been spayed or neutered. This requirement shall not apply if animal care and control receives a letter from the owner's veterinarian, to be confirmed by the animal care and control veterinarian, stating that the dog is physically unable to reproduce or that the dog is medically compromised to the extent that it cannot be safely sterilized.
 - g. Change of status. The owner or custodian of a dangerous dog shall notify the animal care and control division immediately if the dog is unconfined and on the loose, or has attacked a human or a domestic animal.
 - h. Change of ownership. If the owner of a dangerous dog sells, gives away, or otherwise transfers custody of the dog, the owner shall, within five (5) calendar days, provide the animal care and control division with the name, address, and telephone number of the new owner or custodian if the new owner resides within the consolidated city and county limits. The previous owner shall notify the new owner of the dog's designation as a dangerous dog and of the requirements and conditions for keeping a dangerous dog.
- (7) Failure to comply. It shall be unlawful for the owner or custodian of a dangerous dog to fail to comply with the requirements and conditions set forth in this section. Any dog found to be kept in violation of this section shall be subject to seizure and impoundment. In addition, failure to comply shall result in the revocation of the dangerous dog permit for such dog. In the event of permit revocation the dog shall be humanely destroyed.
- (b) Vicious dogs.
- (1) General. It shall be unlawful for any person to keep within the consolidated city and county limits any vicious dog.
 - (2) Grounds for vicious-dog designation. A dog is considered vicious for purposes of this section if it:
 - a. Causes death or serious injury to a person engaged in a lawful activity;
 - b. On two (2) or more occasions, attacks or bites without provocation a person engaged in a lawful activity;
 - c. On more than one (1) occasion, while off the property of its owner and without provocation, seriously injures another domestic animal;
 - d. Without provocation, kills a domestic animal;
 - e. Trains for dog fighting or is owned or kept for the purpose of dog fighting; or
 - f. Has been declared vicious, or has been given some other designation, by another governmental body under circumstances that would meet the grounds for vicious dog designation under the provisions of this article.

(3) Impoundment pending declaration. Upon reasonable suspicion that a dog is vicious and poses a serious threat to public health or safety, the administrator of animal care and control division, or appointed designee, may seek a search warrant and/or a warrant to seize the dog for impoundment, pending the vicious dog declaration process.

(4) Declaration of a vicious dog.

a. Notice to owner. In instances where the dog is declared vicious, the administrator of animal care and control shall, within ten (10) days, notify the owner of the dog in writing posted at the owner's or custodian's last known address, that the dog has been determined to be a vicious animal, the reasons for the declaration and, if applicable, that the dog has been impounded by animal care and control. The owner shall have five (5) days from delivery of the notice to contact the division of animal care and control and comply with the ordinance by having the dog euthanized.

b. Opportunity to contest vicious designation. The notice shall also inform the owner or custodian of the dog that he or she may request an administrative hearing pursuant to section 531-331 et seq. within ten (10) working days from issuance of the notice of vicious-dog declaration.

c. Status pending hearing. Once notice of vicious dog designation has been given, the dog shall be considered vicious unless, and until such time as, the declaration is overruled by the hearing officer or a court of competent jurisdiction.

d. Hearings. Hearings required pursuant to this subsection shall be held no more than ten (10) working days from the date of receipt of the request.

e. Change of status. The owner or custodian of a vicious dog shall notify the animal care and control division immediately if the dog is unconfined and on the loose, or has attacked a human or a domestic animal.

f. Failure to comply. If the person owning, keeping, possessing or otherwise maintaining the dog fails to request a hearing, or if the court determines that the vicious declaration stands, the dog shall be humanely destroyed.

(c) Exemptions. Law enforcement animals shall not be subject to this section, but shall be confined and maintained in accordance the law enforcement agency's general orders.

Sec. 531-340. At-risk dogs.

(a) General.

(1) There shall be a recognized category of dogs designated as at-risk dogs.

(2) Beginning on the ninety-first (91st) day after passage of this section, it shall be unlawful for any person to keep within the consolidated city and county limits any at-risk dog, except in compliance with the provisions of this section.

(3) An at-risk dog shall include the following:

(i) An at-risk dog as defined in Sec. 531-101.

(ii) Any other breed that is so declared by ordinance.

(4) For purposes of this section an "owner" is defined as any person who owns, keeps, exercises control over, maintains, or harbors an at-risk dog.

(5) Notwithstanding the special provisions set forth below as to keeping an at-risk dog within the consolidated city and county limits:

(i) Any such animal is also subject to the provisions for designation as a dangerous dog or as a vicious dog.

(ii) The consolidated city and county's animal care and control division may temporarily harbor and transport any at-risk dogs for purposes of enforcing the provisions of this section.

(iii) An owner may transport into and temporarily hold in the consolidated city and county limits an at-risk dog for the purpose of transporting the dog to a veterinarian or groomer for care, or to participate in a contest or show sponsored by the American Kennel Club or the United Kennel Club.

(b) Permit required.

(1) Permit. An at-risk dog may be kept within the consolidated city and county limits only so long as the registered owner or custodian complies with the requirements and conditions of the at-risk dog permit.

(2) Permit fee. The owner or custodian shall pay an annual permit fee established by the city controller, in addition to all other required fees, for each year that an at-risk dog is kept within the consolidated city or county limits.

(c) Registration requirements. The owner of any at-risk dog that is more than eight (8) weeks old shall be allowed to keep such dog within the consolidated city and county limits only if the owner registers the dog with the city's animal care and control division on an annual basis and obtains an at-risk dog permit and a window sticker with each annual registration. As a condition of registration, the owner shall at the time of application provide sufficient evidence that the owner is in compliance with all of the following requirements:

(1) Rabies vaccination. The dog must be vaccinated against rabies by a licensed veterinarian on an annual basis.

(2) Microchip. The dog must be identified by means of a microchip that is injected under its skin by a licensed veterinarian and maintained as long as the animal is kept within the consolidated city and county limits.

(3) Photo. The owner must bring their at-risk dog to the city animal shelter to have its photo taken with the owner.

(4) Sterilized. The owner must provide documentary proof from a licensed veterinarian that their dog has been spayed or neutered. This requirement shall not apply until the dog is eight (8) weeks old and shall not apply if animal services receives a letter from the owner's veterinarian, to be confirmed by the animal services veterinarian, stating that the dog is physically unable to reproduce or that the dog is medically compromised to the extent that it cannot be safely sterilized.

(5) Relocation reported. The owner of an at-risk dog may relocate the dog to the owner's new Marion County residence if the owner contacts animal care and control prior to the relocation in order to report the new address and obtain a new window sticker. The new window sticker must be posted at the new residence or place of business within ten (10) days of the move.

(6) Maximum number. The number of at-risk dogs over eight (8) weeks olds that are kept, maintained or harbored at one (1) residence shall not exceed two (2).

(e) Breed designation appeals. The owner of a dog that has been identified as an at-risk dog under this section may request an administrative hearing pursuant to section 531-331 et seq. by submitting a request for a hearing to the administrator of animal care and control division in writing within ten (10)

working days of the administrator's designation of the owner's dog as an at-risk dog. A hearing to consider disputes and to view the dog's physical characteristics and pedigree shall be conducted by the hearing officer, who, based on the evidence presented, shall make a final determination of the dog's breed or predominant breed characteristics. If the hearing officer determines that the dog is an at-risk dog, as defined by this section, the owner shall have ten (10) days to meet all registration requirements and to comply with all permit conditions.

(f) *Compliance period.* Within ten (10) days after acquiring an at-risk dog, or after moving to the city with an at-risk dog, or after an at-risk dog designation has been affirmed on appeal, or after noncompliance under this section has been brought to the attention of animal services, the owner of an at-risk dog must register his or her dog and comply with all at-risk dog regulations.

(g) *Enforcement.*

(1) *At-risk dog regulation violations.* Failure to comply with any at-risk dog registration requirement or permit condition within the allotted ten (10) day time period shall constitute a violation of this chapter and may result in the issuance of a citation and a warrant to seize the owner's dog if it is not removed from the city limits pending adjudication of the citation.

(2) *Noncruelty violations.* A permit to keep an at-risk dog within the city may be revoked by the animal care and control division upon the owner's second conviction for violation of Section 201, Section 321, or Section 322. If the permit is revoked, a warrant to seize the at-risk dog may be served on the owner.

(3) *Cruelty violations.* Upon conviction for any animal cruelty charge, the owner of an at-risk dog shall lose their at-risk dog permit(s) and shall lose their right to register any at-risk dogs within the consolidated city and county for a period of ten (10) years. A warrant may be obtained to seize the owner's at-risk dog(s) pending adjudication of the cruelty violation citation. Upon conviction for animal cruelty and revocation of the at-risk dog permit, the owner's at-risk dog(s) must be surrendered to the animal care and control division.

(h) *Authority to euthanize at-risk dog declared to be a vicious animal.* Notwithstanding any provision of this Code of Ordinances, if an at-risk dog is declared to be a vicious animal pursuant to the provisions of subsection 6-19(b), the dog shall be euthanized within seventy-two (72) hours of the final vicious dog declaration.

DIVISION 4 CRIME PREVENTION DOGS

Sec. 531-341. Crime prevention dog; registration required.

(a) It shall be unlawful for a person to own a crime prevention dog in the consolidated city and county without first having registered the animal with the animal care and control division under this chapter.

(b) Notwithstanding the provisions of section 531-312 of the Code, each crime prevention dog shall be implanted with a microchip which bears a registered identification number.

DIVISION 5 CATS

Sec. 531-209;351. Care for unmanaged colonies prohibited.

It shall be unlawful for a person to provide food, water or shelter to a colony of free-roaming cats, unless:

(1) The colony is a managed colony, registered with the animal care and control division or its designee; or

(2) The food, water or shelter is provided in conjunction with the implementation of trap, neuter, and return methodology as set forth in section 531-352 of this chapter.

Sec. 531-352. Managed free-roaming cats.

(a) The animal care and control division or its designee, in order to encourage the stabilization of the free-roaming cat population in the consolidated city and county, may:

- (1) Trap any free-roaming cat in a humane manner;
- (2) Have the cat surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and
- (3) Release the cat to animal care and control for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of free-roaming cats.

(b) The enforcement authority may impound free-roaming cats in violation of this chapter and dispose of the cats in accordance with section 531-~~734~~721. Any free-roaming cat impounded by the enforcement authority that bears an appropriate ear-tipping indicating it belongs to a managed colony may, at the discretion of the animal care and control division, be returned to its managed colony unless illness or injury present an imminent danger to public health or safety.

Sec. 531-~~240~~353. Colony caretaker responsibilities.

(a) Colony caretakers shall abide by standard guidelines devised by the animal care and control division or its designee regarding the provision of food, water, shelter and veterinary care for cats within the managed colony.

(b) Colony caretakers shall have a licensed veterinarian evaluate the health of all trapped free-roaming cats. Seriously ill or injured cats with no reasonable prognosis for humane rehabilitation for survival outdoors will be humanely euthanized.

(c) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00); subsequent or continued violations caretaker's removal from management of the managed colony, or the designee's removal from the program.

Sec. 531-354. Penalties.

Except as otherwise provided in section 531-501 of the Code, a person who violates any provision of this article shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than one hundred dollars (\$100.00).

ARTICLE V. ~~IV~~ WILD OR AND DANGEROUS ANIMALS, REGISTRATION, CONFINEMENT AND APPEAL RIGHTS*

~~Sec. 531-501. Wild animal~~

Sec. 531-401. Application of article.

The provisions of this article shall be supplemental to the other provisions of this chapter which pertain to wild animals.

Sec. 531-402. Wild or dangerous animal; registration required; limitation on ownership.

(a) It shall be unlawful for a person to own a wild animal in the consolidated city and county without first having registered the animal with the animal care and control division under this article; however, this section shall not apply to zoological parks or bona fide circuses or carnivals.

(b) It shall be unlawful for any person to own more than two (2) wild, dangerous, or vicious animals at any time in the consolidated city and county. This subsection shall not apply to veterinarians and operators of kennels that are registered under Chapter 836 of this Code.

(c) It shall be unlawful for any person to own any wild animal in the consolidated city and county unless the dog has been spayed or neutered by a veterinarian and has been implanted with a microchip with a registered identification number.

Sec. 531-403 Wild and dangerous animal determination, appeal rights and confinement requirements.

(a) For purposes of this article, the procedure, terms, and penalties provided in this section shall apply to wild animal and dangerous animal determinations, care requirements to be imposed, and actions by the animal care and control division.

(b) After an investigation, the administrator of the animal control and care division is authorized to make a determination whether an animal is, based upon the factors listed in section 531-101, dangerous ~~or potentially dangerous~~ and shall notify the owner of the animal in writing of that status. If the administrator has probable cause to believe that an animal is dangerous ~~or potentially dangerous~~, the administrator may convene a hearing for the purpose of determining whether the animal in question shall be declared dangerous ~~or potentially dangerous~~ and to determine if the animal would pose a threat to public safety if returned to its owner or if specific conditions of care and treatment were not imposed on the return of the animal to its owner. Prior to the hearing, the administrator shall conduct or cause to be conducted an investigation and shall provide reasonable notice of the hearing to the owner.

(c) Following notice to the owner and prior to the hearing, if the administrator has probable cause to believe that an animal is dangerous and may pose a threat to public safety, the administrator may obtain a search warrant pursuant to the laws of this jurisdiction and impound the animal pending disposition of the case. The owner of the animal shall be liable for the cost and expenses of keeping the animal.

(d) The hearing shall be held no less than five (5), and not more than ten (10) days, excluding holidays, Saturdays and Sundays, after service of notice upon the animal's owner. The hearing shall be informal and open to the public. The owner shall have the opportunity to present evidence as to why the animal should not be declared dangerous or not pose a threat to public safety if returned to its owner. The administrator may present all issues for or against the owner of the animal regardless of whether the owner appears at the hearing.

(e) Within five (5) days after the hearing, the administrator shall notify the owner in writing of the determination.

(f) The owner may, within five (5) days after a determination that an animal is dangerous, bring a petition in this county seeking review of the determination. A decision by a court overturning the administrator shall result in the return of the animal to the owner subject to the provisions of section 531-~~733~~725.

(g) Confinement of a wild or dangerous animal means confinement to a fenced yard from which the animal may not escape by slipping under or over the fence or through an open gate or which would allow the animal to bite or to otherwise wound a person who may brush against or stick a hand or finger in, over or through the fence. Such an animal may be confined in an owner's home. The animal's confinement must be such as will prevent the animal from harassing neighbors or passersby and may not constitute either a sight, smell or noise nuisance.

(h) Any violation of this section shall subject the owner or person in possession of the animal to the enforcement provisions of section 103-3 of the Code, and the fine imposed shall not be less than five hundred dollars (\$500.00) for the first violation; not less than one thousand dollars (\$1,000.00) for a second violation; and upon a third violation, the animal shall be seized in accordance with section 531-721, et seq. If such violation results in the animal causing serious injury to any person, the court shall, upon request, order the animal forfeited and/or destroyed.

~~Sec. 531-502. Wild animal and dangerous animal; registration required; limitation on ownership.~~

~~(a) It shall be unlawful for a person to own a wild animal or dangerous animal in the city without first having registered the animal with the animal care and control division under this article; however, this section shall not apply to zoological parks or bona fide circuses or carnivals.~~

~~(b) It shall be unlawful for any person to own more than two (2) dangerous animals at any time in the city. This subsection shall not apply to veterinarians and operators of kennels that are registered under Chapter 836 of this Code.~~

~~(c) It shall be unlawful for any person to own any dangerous animal that is a dog in the city unless the dog has been spayed or neutered by a veterinarian and has been implanted with a microchip with a registered identification number.~~

~~Sec. 531-503. Crime prevention dog; registration required.~~

~~(a) It shall be unlawful for a person to own a crime prevention dog in the city without first having registered the animal with the animal care and control division under this article.~~

~~(b) Notwithstanding the provisions of section 531-202 of the Code, each crime prevention dog shall be implanted with a microchip which bears a registered identification number.~~

~~Sec. 531-504.~~404. Registration information required; notification of change.

(a) A registration required by this article shall be made on forms provided by the animal care and control division, and shall include the following:

- (1) The owner's name, address, and telephone number where the owner can be reached in the event of an emergency;
- (2) The address and type of premises where the animal is kept;
- (3) A detailed description of each animal registered; and
- (4) Any other information deemed necessary and appropriate by the animal care and control division.

(b) During the term of the registration, the owner of an animal registered under this article shall notify the animal care and control division in writing of any change in circumstances which would render the information contained in the registration incomplete or inaccurate.

~~Sec. 531-505.~~405. Registration fee, term and revocation.

(a) There is no fee for the registration of an animal under this article.

(b) The term of the registration shall expire on the last day of December of the year in which the registration is made, and shall be renewable upon application therefor.

(c) The animal care and control division may revoke a registration issued under this article for any violation of this article committed by the owner of the animal.

~~Sec. 531-506. Warning signs required.~~

~~(a) The owner or occupant of premises where a wild or dangerous animal is kept shall post, at each entrance to such premises, conspicuous signs which state, "WARNING: WILD OR DANGEROUS ANIMAL. FOR FURTHER INFORMATION CALL (the telephone number of the owner or occupant of the premises)."~~

~~(b) The owner or occupant of premises where a crime prevention dog is kept shall post, at each door of the premises accessible to the dog, conspicuous signs which state, "WARNING: A CRIME PREVENTION DOG IS GUARDING THIS PROPERTY. FOR FURTHER INFORMATION CALL (the telephone number of a person able to control the dog)."~~

~~Sec. 531-507. Penalties.~~

~~Except as otherwise provided in section 531-501 of the Code, a person who violates any provision of this article shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than one hundred dollars (\$100.00).~~

ARTICLE ~~III~~V. RABIES CONTROL

Sec. 531-~~304~~501. Antirabies vaccinations required for dogs and cats.

(a) It shall be unlawful to keep a dog or cat or to provide food, water or shelter to a colony of free-roaming cats over the age of three (3) months in the city unless each cat or dog is immunized against rabies by a vaccination performed by a veterinarian and the period of immunization specified by the veterinarian performing the vaccination has not expired.

(b) A person's first violation of this section shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations shall be subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

Sec. 531-~~302~~502. Record of antirabies vaccinations; tag required.

(a) A veterinarian who administers an antirabies vaccination in the city shall, at the time a dog or cat is vaccinated, issue to the animal's owner a durable antirabies vaccination tag upon which is imprinted the name of the veterinarian's facility, telephone number and the year and serial number of the vaccination.

(b) Each owner of a dog or cat that is kept in the city shall cause the antirabies vaccination tag to be affixed to the animal's collar, and to be worn by the animal at all times. A person's first violation of this subsection in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations in a twelve-month period shall be punishable as provided in section 103-3 of this Code.

(c) A veterinarian who administers an antirabies vaccination in the city to a free-roaming cat shall provide to the colony caretaker written documentation of the administration of the vaccine, which shall include the name of the veterinarian's facility, telephone number and the year and serial number of the vaccination.

(d) A colony caretaker of a colony of free-roaming cats must maintain at all times, for inspection by the enforcement authority as defined in section 531, article VII of this Code, a record of antirabies vaccination for all free-roaming cats within a colony. A person's first violation of this subsection in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations in a twelve-month period shall be punishable as provided in section 103-3 of this Code.

Sec. 531-~~303~~503. Precautionary measures, and individual animal quarantine.

A captured animal known to have bitten or otherwise exposed a person to the possibility of contracting rabies through nonbite exposure in the city shall be humanely quarantined for a period of not less than ten (10) days. In the sole discretion of the quarantining authority, the quarantine may be on the premises of the owner, at the city animal care and control shelter or those of its contractors, if any, or at the owner's expense in a kennel or veterinary hospital.

Sec. 531-~~304~~-504. Surrender of suspected animal by owner.

Whenever the quarantining authority has reasonable cause to suspect that an animal in the city has been exposed to rabies, or bitten or exposed through nonbite exposure a person to rabies, such animal shall be surrendered by its owner for quarantine and observation, at the owner's expense, promptly upon demand by the quarantining authority. Such quarantine and observation shall be at the owner of the animal's expense.

Sec. 531-~~305~~-505. Finding of rabies; general quarantine.

(a) When an animal quarantined in the city has been found rabid or is suspected of being rabid by a veterinarian and dies while under observation, the quarantining authority shall take such action as is specified in such cases by the state board of animal health and shall notify the proper public health officials of reports of human contacts made by, and the diagnosis made of, the animal.

(b) When a rabies report is made under subsection (a) of this section, the quarantining authority shall recommend to the director of the city department of public safety a general quarantine in the city for a period of thirty (30) days. Upon invocation of the general quarantine by the director, any animal found at large in the city may be destroyed without being impounded. During the quarantine period, every animal bitten or exposed through nonbite exposure by an animal adjudged to be rabid shall be confined, at its owner's expense, or destroyed as specified by the state board of animal health.

(c) During a general quarantine declared by the director under this section, an animal's owner or keeper who resists the quarantining authority acting under this chapter, or who permits an animal owned or kept by that person to be at large in the city, shall be punishable by a fine not to exceed five hundred dollars (\$500.00), and any animal which is suspected of being rabid or is in violation of the general quarantine shall be impounded.

Sec. 531-~~306~~-506. Disposition of rabid animals.

The quarantining authority shall dispose of any animal reasonably suspected by it of being infected with rabies in the city in accordance with the rules and regulations of the state board of animal health.

Sec. 531-~~307~~-507. Reports by veterinarians.

Each veterinarian in the city shall report to the quarantining authority animals suspected by the veterinarian of being rabid.

ARTICLE VI. EUTHANASIA OF ANIMALS

Sec. 531-601. Humane euthanasia of animals.

(a) The animal care and control division, other animal shelters, and/or public animal facilities which destroy animals in the city, shall use only such methods, materials and standards as approved by the American Veterinary Medical Association for said purpose. In no event shall an animal be euthanized inhumanely.

(b) The shelter shall provide sedatives for struggling or vicious animals when necessary for use during the euthanasia process and train its personnel in their proper and humane use and administration.

Sec. 531-602. Persons authorized to humanely euthanize animals.

Only persons trained in humane procedures by licensed veterinarians, by registered veterinary technicians, or by persons sanctioned and/or certified by the Humane Society of Indianapolis shall perform the euthanasia of animals in a humane manner.

Sec. 531-603. Assurance of death prior to disposition.

No animal's body shall be disposed of until all vital signs are checked (fixed pupil, cessation of heartbeat and respiration) to assure that death has occurred.

Sec. 531-604. Funding.

Sufficient funds shall be appropriated in each annual budget of the city for trained personnel, drugs, proper and humane equipment and facilities necessary to administer humane destruction of animals as specified in this subchapter.

ARTICLE VII. ENFORCEMENT AUTHORITY*

DIVISION 1. IN GENERAL

Sec. 531-711. Enforcement authority defined.

For the purposes of this article, the enforcement authority shall consist of the city department of public safety, its animal care and control division and other divisions, contractors, agents, employees and designees.

Sec. 531-712. Enforcement authority's rights and responsibilities.

(a) Persons who are individually charged with the enforcement of this chapter shall be designated animal care and control officers, and prior to the performance of any act in connection therewith, shall be appointed and sworn as special police officers pursuant to chapter 251, article VI of the Code. Such animal care and control officers shall also receive appropriate and relevant training and be certified by the National Animal Control Association or other appropriate agency.

(b) It shall be the duty of the metropolitan law enforcement agency to assist in the enforcement of all provisions of this chapter and other ordinances in relation to animals, and it shall be the duty of all officers of such agency to report at once all violations thereof to police or sheriff's headquarters.

(c) Such officers are authorized to enforce all provisions of this chapter and section 836-5 of this Code, including the right to proceed upon public and private property in the city in pursuit of animals in violation of this chapter.

(d) Such officers are not authorized to enter a privately owned enclosure in pursuit of an animal without the consent of the owner, lessee or other occupant of the enclosure, or other legal process; provided, however, if any animal is believed to be enclosed without adequate food, shelter and water, or dead animals are believed to be enclosed, and such owner or occupant is not present and cannot readily be located, an animal care and control officer may affix a notice to the premises in an obvious location, directing the occupant to contact the officer at a given location and phone number. If neither the occupant nor anyone on the occupant's behalf responds to such notice within twenty-four (24) hours after the notice is affixed, an animal care and control officer may enter the premises to determine if the provisions of this chapter or section 836-5 of this Code have been violated.

Sec. 531-713. Interference with enforcement authority.

It shall be unlawful for a person to interfere with an animal care and control officer or other enforcement authority officer in the performance of the officer's duties. A person who violates this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than fifty dollars (\$50.00).

DIVISION 2. IMPOUNDMENT AND DISPOSITION OF ANIMALS

Sec. 531-721. Grounds for impoundment.

- (a) Any animal found at large in violation of this chapter shall be captured and impounded.
- (b) Any animal found confined or abandoned on private property in violation of this chapter or section 836-5 of this Code shall be impounded.
- (c) Any dangerous animal found at large or not confined as required by this chapter may be captured, impounded and its release shall be subject to the provisions of section 531-733.

Sec. 531-722. Notice to owner.

- (a) Upon the impoundment of an animal, a reasonable attempt shall be made to notify and inform the owner of the animal of the requirements of this article for regaining the custody of the animal.
- (b) Such attempt shall include, but not necessarily be limited to, the following:
 - (1) In the instance of an impounded dog or cat, contact with the owner identified by the microchip or other permanent means of identification, if any, borne by the dog or cat;
 - (2) In the instance of an impounded dog or cat not bearing a permanent means of identification, contact with the veterinarian facility listed on the animal's vaccination tag; and
 - (3) Cooperation of effort with other governmental and private agencies, such as the Humane Society of Indianapolis or other humane and/or breed rescue organizations recognized by the animal care and control division.

Sec. 531-723. Report of impoundment.

A person who confines an animal found by that person to be at large in the city shall notify the city department of public safety or one of its agents within forty-eight (48) hours thereafter.

Sec. 531-724. Return of captured animal without impoundment.

When the owner of a captured animal is known, such animal need not be impounded but may be returned to its owner if, in the opinion of the animal care and control officer, the return would not present a danger to the public or otherwise result in a violation of this chapter.

Sec. 531-725. Return of impounded animal to its owner.

- (a) An animal impounded under this division, if claimed by its owner, shall be returned to its owner subject to, and upon compliance with, the provisions of division 2 and division 3 of this article.
- (b) The owner of an impounded animal may obtain the return of such animal upon compliance with any applicable provisions the board may impose, and the payment of the appropriate impoundment and kennel fees, and any other applicable fees and fines.
- (c) Prior to the return to its owner of an impounded dog or cat which at the time of impoundment did not bear a permanent means of identification as required by section 531-202 of this Code, the enforcement authority shall cause a microchip with a registered identification number to be implanted in the animal. The fee for such service shall be ten dollars (\$10.00).

Sec. 531-726. Impoundment and kennel fees; disposition.

- (a) Impoundment and kennel fees for animals impounded under this ~~article~~chapter shall be as follows:

- (1) For each small animal other than a dog, ten dollars (\$10.00), and three dollars (\$3.00) for each day of impoundment or fraction thereof;
- (2) For each dog, twenty dollars (\$20.00), and five dollars (\$5.00) for each day of impoundment or fraction thereof; and
- (3) For any large animal other than a dog, thirty dollars (\$30.00), and ten dollars (\$10.00) for each day of impoundment or fraction thereof.

(b) Impoundment and kennel fees shall be collected by and paid to the enforcement authority, which shall remit such funds to the office of finance and management; however, if the enforcement authority in a particular case is a person contracting with the city to render services, the fees may be retained by and as the property of such person as part of all of that person's charges for rendering such services, if the contract so provides.

Sec. 531-727. Petition for bond to cover costs of impoundment and care; forfeiture of animal.

(a) *Petition.* Whenever an animal is impounded under this article for a violation of section 531-109, 531-204, or 531-305, or a violation of article IV of this chapter, or a violation of [article] V of this chapter, or a violation of 531-728, or has been impounded on a prior occasion, or the city prosecutor has applied for an order under section 531-733, the city prosecutor may file a petition with the court having jurisdiction over the ordinance enforcement action requesting an order to require the owner to post a cash bond to cover the fees and costs of the animal's care. The petition shall include an itemized estimate of the reasonable expenses the animal care and control division expects to incur for the care of the animal from the time of impoundment to a minimum of thirty (30) days thereafter. Such expenses shall include but are not limited to the impoundment fee and kennel fees provided in section 531-726 of the Code, and the estimated cost of emergency and routine veterinary care.

(b) *Hearing and order.* The court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision on the city prosecutor's petition. If the court finds there is a reasonable likelihood that the city will prevail on the merits of the ordinance enforcement action, then the court shall order the owner to post a cash bond as provided in this section to cover the fees and other costs of care of the animal for a specific period of time of not less than thirty (30) days beginning on the date of impoundment.

(c) *Posting of bond; time requirements.* The owner shall post the bond by delivering cash or a certified or cashier's check payable to "City of Indianapolis" to the animal care and control division. The cash or check must be received by the animal care and control division within three (3) days after the date of the court's order, excluding Saturdays, Sundays, and city holidays established in section 291-206 of the Code. The animal care and control division shall hold such check or cash in trust until forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs.

(d) *Renewal bonds.* The animal's owner shall renew the bond at the end of the period of time ordered by the court, and every thirty (30) days thereafter, in the same manner as posting the bond provided in subsection (c) of this section. The owner's duty to renew the bond shall continue until forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs. The owner shall pay the renewal bond before the close of business on the last day of each bond period; however, if such last day is a Saturday, Sunday, or city holiday established in section 291-206 of the Code, then the renewal bond shall be paid on the last business day prior to such Saturday, Sunday, or holiday.

(e) *Forfeiture.* If an owner fails to post a bond within three (3) days as provided by subsection (c) of this section, or fails to pay a renewal bond before the close of business on the last day of each bond period as provided by subsection (d) of this section, then the owner shall be presumed to have surrendered all rights and claim of ownership and control of the animal and the city prosecutor may petition the court for an order to dispose of the animal under the provisions of section 531-731 of the Code.

(f) *Expiration of bond.* Upon forfeiture of the animal, return of the animal to its owner, or final adjudication of the ordinance enforcement action, whichever first occurs, the animal care and control division shall be entitled to draw upon the cash or certified or cashier's check to cover the animal's impoundment fee, kennel fees and the cost of any actual veterinary care. After the fees and costs are paid, the city shall promptly remit any remaining bond money to the owner; however, if the bond money is not sufficient to cover such fees and costs, the owner shall be liable to the city for the difference.

Sec. 531-728. Additional restrictions on dangerous or nuisance owners or keepers of animals.

(a) It shall be unlawful for any person who has been found in violation of sections 531-102 (at large), 531-103 (animals in heat), 531-~~409~~112 (animal attacks), 531-~~204~~104 (nuisance), 531-~~206~~208 (unlawful use), 531-~~404~~201 (care and treatment), 531-~~402~~202 (abandonment), 531-~~404~~204 (animal fights) or article III or IV of this chapter, to own or keep more than two (2) dogs in the city or to own or keep any dog:

- (1) That has not been spayed or neutered by a veterinarian; or
- (2) That has not been implanted with a microchip with a registered identification number.

(b) A person who has been found in violation of sections 531-102(c) (at large), 531-~~409~~112 (animal attacks), 531-~~206~~208 (unlawful use), 531-~~404~~204 (animal fights) or article III or IV of this chapter commits a violation of the code if any dog owned or kept by that person is outside a structural enclosure sufficient to confine the dog without means of escape, unless the dog is on a leash and under the control of a competent adult.

DIVISION 3. OTHER DISPOSITION OF ANIMALS

Sec. 531-731. Disposition of owner-surrendered animals and impounded animals not claimed by owner; adoption.

(a) An animal surrendered by its owner to the animal care and control division and not reclaimed by its owner, adopted, or rescued by a humane or breed rescue organization, may be kept or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal care and control board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. No owner-surrendered animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care and control shelter (keeping in mind the necessity of having empty places for animals to be moved during cleaning).

(b) An animal impounded under this article and which is not claimed by its owner shall be confined by the enforcement authority in a humane manner for a period after capture of not less than four (4) days. An animal not claimed within the four-day impoundment period may be kept, adopted, rescued by a humane or breed rescue organization or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal care and control board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. Even after the expiration of the four-day impoundment period, no animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care and control shelter (keeping in mind the necessity of having empty places for animals to be moved during cleaning).

(c) Following the four-day impoundment period, a person other than the animal's owner or a member of the owner's family who wishes to adopt an impounded animal which has not been claimed, and which is otherwise available for adoption, may adopt the animal. It is declared that the adoption of as many animals as possible is a priority of the animal care and control shelter. Such person wishing to adopt an animal from the animal care and control shelter shall pay to the city an adoption fee of fifty dollars (\$50.00) to cover the enforcement authority's expenses, including the expense of vaccinations; however, with respect to a dog or cat which does not bear an identification microchip, the enforcement authority shall cause a microchip with a registered identification number to be implanted in the dog or cat prior to the animal's adoption, and the adoption fee for such a dog or cat shall be sixty dollars (\$60.00).

~~(d) A person who wishes to adopt a dog or cat~~All dogs and cats that has been impounded under this article or is otherwise are available for adoption, ~~and that has not been spayed or neutered,~~ must meet the adoption and sterilization criteria adopted by the animal care and control board, ~~and first shall agree in writing prior to have the animal spayed or neutered at that person's expense. Failure to have the animal spayed or neutered within sixty (60) days after the date of adoption shall be a violation of this Code.~~

Sec. 531-732. Use of owner-surrendered or impounded animal for research prohibited.

No animal surrendered by its owner or impounded under this article shall be used or disposed of for purposes of research or experimentation by use of the animal.

Sec. 531-733. Restrictions on return of certain animals.

(a) Notwithstanding any other provision of this chapter, an animal which has been impounded under this article for a violation of sections 531-102 (at large), 531-103 (animals in heat), 531-~~409~~112 (animal attacks), 531-~~204~~104 (nuisance), or 531-~~305~~505 (rabies quarantine), or a violation of either article III, IV or V, of this chapter, or a violation of 531-728 (additional restrictions), or which has been impounded on a prior occasion, or which has bitten or otherwise caused injury to person or property shall be returned to its owner only if the enforcement authority in its discretion determines that such return will not result in further or ongoing violations of these sections.

(b) If such a determination cannot be made, or article III or IV of this chapter is applicable or the actions of the animal/dog have resulted in serious injury to a person, the enforcement authority then shall apply to a court of competent jurisdiction for an order to dispose of the animal under the provisions of section 531-731 of this article.

Sec. 531-734. Injured or diseased animals.

Notwithstanding any provision of this article to the contrary, an injured or diseased animal need not be retained four (4) days, but may be disposed of at any time when in the reasonable discretion of the enforcement authority, it would be more humane and reasonable to do so, rather than provide veterinary care.

Sec. 531-735. Contracts for the disposition of owner-surrendered and impounded animals.

The city may contract, arrange or agree for the disposition of an animal that was surrendered by its owner, or impounded, and that was unclaimed for longer than four (4) days, and an animal transferred to a person so contracting, arranging or agreeing with the city shall thereafter be the property solely of the contractor. The contract, arrangement or agreement may provide for the retention by the contractor of any funds received in payment for animals sold to other persons, in order to help cover such contractor's expenses of rendering its services. All animals sold to other persons by a contractor must meet the adoption and sterilization criteria adopted by animal care and control.

Sec. 531-736. Capture, holding and maintenance, and disposition of animals by the humane society.

(a) The Humane Society of Indianapolis, Inc., by its duly authorized agents, employees or other personnel, shall have the authority to proceed to the scene or location of a diseased, sick or injured animal which is at large in the county after being requested to do so by any member of the general public for the purposes of capturing and transporting such animal to its duly established humane shelter, and to hold and properly maintain the animal until it is either claimed by its owner, or in the discretion of the humane society, otherwise properly disposed of. The humane society may also receive an animal brought to its shelter by members of the general public or proper governmental personnel and either keep, or in the discretion of the humane society, otherwise humanely dispose of such animal.

(b) Upon the capture of any diseased, sick or injured animal or taking of an animal brought to its shelter by a person or any local governmental personnel, the humane society personnel shall make a reasonable attempt to notify and inform the owner of the animal of the requirements and procedures for claiming ownership and regaining custody thereof.

(c) When the owner of a captured or held animal is discovered or known, the animal shall be returned to the owner upon the payment of any applicable fees or upon the compliance with all other applicable procedures of the humane society. If the owner does not claim an animal or desires not to claim it, the humane society, within its discretion, may return the animal to any person desiring to assume ownership, custody and care thereof in conformance with the established requirements of the humane society after a four (4)-day holding period, as long as the animal has or will receive a current antirabies vaccination under the provisions of Article ~~III~~V of this chapter.

(d) Upon the capture of any diseased, sick or injured animal or the taking of an animal brought to its shelter by any person or any local governmental personnel, the humane society shall, subject to the provisions of subsection (e) of this section, confine the animal in a humane manner for a period of not less than four (4) days. Thereafter, the humane society in its discretion may keep, release or otherwise humanely dispose of the animal consistent with the established procedures of the humane society as they may be amended from time to time.

(e) Notwithstanding any provision of this section to the contrary, diseased or injured animals need not be retained four (4) days, but may be humanely disposed of at any time if in the discretion of the proper humane society personnel or authorized veterinarian such disposition is necessary and proper for such animals.

(f) This section does not authorize the humane society to assume any of the impoundment and disposition functions of the animal care and control division as elsewhere specified in this chapter or state law.

(g) Nothing in this section shall inhibit the animal care and control division in any way from carrying out its functions in accordance with applicable law and whatever provisions or regulations the city board of public safety shall make in carrying out its mandate to make provisions to maintain an animal care and control division, to regulate the capture, impoundment, sale and destruction of animals in accordance with applicable law, and for the operation of the animal care and control division.

ARTICLE VIII. GIFTS AND FINANCING

Sec. 531-811. Gifts to animal care and control division; disposition.

(a) All money generated, received or collected by virtue of the provisions of this chapter are to be set aside and placed in the general fund, except as hereinafter provided.

(b) Gifts or donations to the animal care and control division may be accepted by the city controller or the mayor, for and on behalf of the animal care and control division. All moneys received by donations, gifts, bequests or devises or otherwise (except as provided in section 531-811(c)) shall be paid to the city controller on the first day of the week succeeding the week during which such moneys were received, and deposited into a dedicated animal care fund to be used to promote the safe and humane treatment of animals in the city and to promote responsible pet ownership, to pay for any reasonable expenses incurred promoting the proper care, treatment and sterilization of animals and education of the public regarding the same. No expenditure may be made from the dedicated animal care fund unless first approved by a majority of the animal care and control board. The expenditure of funds from the dedicated animal care fund shall be subject to all state and local appropriation and purchasing requirements. Any funds donated for a specific purpose shall be used only consistently with the donor's specific request.

(c) All money generated, received or collected in response to the division's special fund-raising projects shall be payable to the city controller and deposited in a dedicated animal control special projects funds to be used in a manner consistent with the announced purpose of any special fund-raising event or project. No expenditure may be made from the dedicated animal care special projects fund unless first approved by the administrator. The expenditure of funds from the dedicated animal care special projects fund shall be subject to all state and local appropriation and purchasing requirements and appropriated by the city-county council.

(d) The administrator shall provide the animal care and control board, at each meeting, and to the council every six (6) months a report relating to the revenue and expenditures from the dedicated animal care fund and the dedicated animal care special projects fund.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2009, at _____ p.m.

ATTEST:

Bob Cockrum
President, City-County Council

Melissa Thompson
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2009, at 10:00 a.m.

Melissa Thompson
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2009.

Gregory Ballard, Mayor