

CHAPTER 91: ANIMALS

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

ABANDONED ANIMAL. An animal permanently left behind without provisions for ongoing care in circumstances which might cause harm to the animal. Cats serviced through trap-neuter-return programs and returned to where they were

trapped shall not be considered animal abandonment.

ALTERED. An animal who has been sterilized.

AT LARGE. Off the premises of the owner/harbinger and not under the control of the owner or a person 18 years or older authorized by the owner to act in the owner's behalf either by leash, chain, or other appropriate physical restraint.

ATTACK. Intentionally biting or attempting to bite or pursuing any person or animal with evident purpose of causing bodily injury to the person or animal so that the person or animal has reasonable grounds to fear for his or her own and animal's safety. Merely barking or growling at a person or an animal does not in itself constitute an attack.

BEAT. To unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

COLONY. A group of one or more free-roaming cat(s) that live together in one territory, often near a food and shelter source.

COMMUNITY CAT. Any outdoor free-roaming cat that has been evaluated and sterilized by a licensed veterinarian, ear tipped, vaccinated for rabies, and released back into the area from which it was captured.

COMMUNITY CAT PROVIDER. A person who provides food, water, shelter, or otherwise cares for community cats and satisfies rules and requirements of § 91.22. A person so identified by this definition shall not be considered the owner of a community cat.

DOMESTIC ANIMAL/ANIMAL. Any companion animal that is a member of one of the following species: Dog, Cat, Pet Rabbit, Pet Mouse, Pet Rat, Reptile, Guinea Pig, Chinchilla, Hamster, Gerbil, Ferret.

EAR TIPPING. Designed to identify a community cat as being sterilized; involves removal of one-quarter if a community cat's left ear performed by a licensed veterinarian.

EUTHANASIA. Is a Greek term meaning "good death", the objects are met when death is induced by lethal injection of a phenobarbital sodium which causes no unreasonable pain or distress to an animal.

FREE-ROAMING CAT. An intact cat who may be eligible to join a community cat program.

HABITUAL ORDINANCE VIOLATION. More than three violations in this chapter within a period of one calendar year in which the calendar year begins January 1 and end December 31 or each year.

IDENTIFICATION. A permanent or temporary form of identification worn by or implanted in the animal to determine the owner of the animal or community cat provider and includes contact information.

KENNEL. Any premises wherein any person engages in the business of boarding, breeding, buying, letting or keeping more than four dogs for hire, training for a fee or selling.

MUTILATE. To wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless, unless done by a veterinarian as a reasonable practice of treatment. The term includes bodily injury involving: serious permanent disfigurement, serious temporary disfigurement, permanent or protracted loss or impairment of the function of a bodily part or organ, or a fracture.

NEGLECT. To endanger an animal's health by failing to provide or arrange to provide the animal with sufficient nutritious food or clean water to drink if the animal is dependent upon the person for the provisions of food or water and fail to provide reasonable care for or seek veterinary care for an injury or illness to an animal that seriously endangers the life or health of the animal.

NUISANCE. Any domestic animal that habitually disrupts the expected enjoyment and use of private property either privately or publicly owned.

OWNER/HARBORER. Any person, firm, or corporation who intentionally provides food, water, and/or shelter for a domestic animal for a minimum of 14 consecutive days. Community Cat Providers of community cats serviced through TNR programs shall not be considered to be owners/harborers.

SHADE. Comparative darkness and coolness caused by large stationary objects from direct sunlight and heat.

TETHERING. Is the practice of fastening an animal to a stationary object or stake as a means of keeping the animal under control, which excludes periods when an animal is walked on a leash.

TORTURE. To inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal's pain or to administer poison to a domestic animal or expose a domestic animal to a poisonous substance with the intent that the domestic animal ingests the substance and suffer harm, pain, or physical injury.

TRAP NEUTER RETURN (TNR). Process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping and returning to their original location.

VICIOUS ANIMAL. Any domestic animal that has without provocation attacked or threatened a human being or other domestic animal off its owner's property. Any animal that by its propensity, tendency, or disposition constitutes an immediate and serious physical threat to human beings or animals, or a domestic animal that has previously attacked or bitten humans or another domestic animal off its owner's property.

(Ord. 1997-5, passed - - ; Am. Ord. 2007-13, passed 11-20-2007; Am. Ord. 2012-25, passed 11- -2012; Am. Ord. 2013-1, passed 1-2-2013; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2022-10, passed 6-7-2022; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.02 ANIMAL SHELTER.

An animal shelter shall be located within or without the city limits and may be used for the housing and caring of domestic animals, some of which are found to be running at large within the city or the contracted surrounding territory or impoundment as described by ordinances or have been surrendered by their owner/harbinger.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-2-2023)

§ 91.03 ANIMAL SHELTER DIRECTOR.

There shall be appointed by the Mayor a person to act as the Director of the animal shelter and Animal Control Department. He or she shall serve at the pleasure of the Mayor and shall serve at a salary to be set by the Mayor, subject to the approval of City Council. The Director shall be under direct control of the Mayor. The duty of the Director may include return, adoption, transfer to rescues or other animal shelters, and any other means of ensuring live outcomes of homeless dogs and cats and through sterilization, community outreach, impoundment of pets at risk and any other humane means deemed necessary to address strays and ensure live outcomes for dogs and cats that are not a danger to the community or suffering irremediably.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.04 OWNER REQUESTED EUTHANASIA.

Pet owners have the option to request euthanasia of their pet by lethal injection to be performed by a certified Euthanasia Technician employed by the Animal Control Department for a fee hereby established and collected by a designated staff member of the Animal Control Department prior to providing such service as follows: Fee: \$40.00 per animal.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2022- 17, passed 7-19-2022; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.05 GENERAL ANIMAL CARE.

The owner/harbinger of any domestic animal located within the city shall ensure that the animal:

- (A) Is kept in a clean, sanitary and healthy manner; is not confined so as to be forced to stand, sit or lie in excrement;
- (B) Has sufficient wholesome food and clean water which is proper and nutritional for that species of animal;
- (C) Receives proper veterinary care as necessary to treat illness, disease and/or injury, to prevent the transmission of disease to other animals or human beings and to promote good animal health;
- (D) Is properly vaccinated as required by law and to prevent the spread of disease;
- (E) Is not beaten, mutilated, neglected, tortured or abandoned;
- (F) Is prevented from running at large; and
- (G) Is not left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.

(Ord. 2012-25, passed 11- -2012; Am. Ord. 2013- 1, passed 1-2-2013; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.06 TETHERING.

- (A) No animal shall be tethered by use of a choke collar or any collar too small for the size and age of the animal.
- (B) No animal shall be tethered by any rope, chain or cord directly attached to an animal's neck.
- (C) The tether shall be no less than 12 feet long and does not allow the animal to come within five feet of a public sidewalk, street, road, alleys, or other public or private property.
- (D) No animal shall be tethered without swivels on both ends.
- (E) No animal shall have unreasonable weight as to prevent such animal from moving about freely.
- (F) No animal shall be tethered without access to food, clean water, and shelter.
- (G) No animal shall be tethered between the hours of 11:00 p.m. and 6:00 a.m.
- (H) No female not altered shall be tethered for any period of time unless supervised by a competent adult for the duration of such tethering.

(Ord. 2007-13, passed 11-20-2007; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.07 PROPER CARE IN CONSIDERATION OF WEATHER.

(A) All owned domestic animals shall be provided shade and shelter as defined during normal weather conditions.

(B) During temperatures of 40 degrees Fahrenheit or below, any owned domestic animal spending more than 20 minutes outdoors shall be provided with sufficient straw and shelter to provide protection and warmth from conditions.

(C) During wind chill advisories/warnings, all owned domestic animals shall be kept in a fully enclosed structure that is either climate controlled or provides shelter and straw within that structure and only permitted outdoors under direct supervision.

(D) During heat advisories/warnings, all domesticated, owned domestic animals shall be kept in a fully enclosed structure that is either climate controlled or provides a sufficient means for the animal to keep their body temperature at a comfortable level within that structure and only permitted outdoors under direct supervision.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.08 PERMANENT IDENTIFICATION - MICROCHIP.

(A) All animals impounded for running at large and returned to their owner or community cat provider will be required to have their animal implanted with a microchip by a staff member of the Animal Control Department;

(B) Anyone may have their animal voluntarily implanted with a microchip by a staff member of the Animal Control Department.

(C) A fee of \$10 will be charged and collected by a staff member of the Animal Control Department.

(Ord. 2015-19, passed 12-15-2015; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.09 INTERFERENCE WITH OFFICERS.

It shall be unlawful for any unauthorized person to break open the animal shelter or to attempt to do so, or to take or let out any animal therefrom, or to take or attempt to take from any officer any animal taken up by him or her in compliance with this subchapter or in any manner to interfere with or hinder such officer in the discharge of his or her duties under this subchapter.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.10 ORDINANCE VIOLATION IMPOUNDMENT.

(A) If an owner/harbinger is found to be in violation of any ordinances and at the discretion of the animal control officer, they will first receive a verbal warning with a deadline to be in compliance. If the owner/harbinger does not come within compliance by the deadline, a citation will be issued each day until the owner/harbinger is within compliance or the animal(s) will be impounded if found to be necessary.

(B) If the animal is found to be in a life-threatening situation and an owner/harbinger cannot be contacted in a timely fashion, the animal shall be taken by an agent of the Animal Control Department and/or Police Department and impounded at the animal shelter for a period of time no more than three days.

(C) Habitual ordinance violations will result in immediate impoundment of animal. Owner/harbinger will be subject to the redemption and release requirements.

(D) Section 91.12 Running at Large Impoundment will be considered and applied separately.

(E) In the event such animal is not claimed, thereafter will be sold, transferred to another shelter/rescue or euthanized by injection.

(F) In the event an animal is found to be unreasonably suffering from injury or illness and an owner is unable to be located/contacted in a timely fashion or willing to provide necessary care, the animal will be euthanized by injection prior to the applicable hold period end date.

(1) The Director or the assigned staff member to act on the Director's behalf when not reachable will make the ultimate decision after verifying the condition of the animal and all possible options to identify an owner or convince the owner to provide care have been exhausted.

(2) The animal will be thoroughly documented, including photos from multiple angles, and held for a minimum of five days before disposal.

(3) The owner will be responsible for the applicable fees listed under § 91.04 Owner Requested Euthanasia in addition to the redemption fees listed in this section.

(G) The owner/harbinger will be subject to the following redemption and release requirements:

(1) First Offense \$50.00;

(2) Second Offense \$100.00;

(3) Third Offense \$150.00;

- (4) Fourth Offense: The animal becomes property of the animal shelter;
 - (5) If the animal is not microchipped, they will be required to be for an additional fee of \$10.00;
 - (6) If the animal requires veterinary care or other additional costs, the owner will be required to pay those costs incurred by the shelter;
 - (7) Owners are required to produce an unexpired rabies certificate with a veterinarian signature if over the age of four months and veterinarian record of current disease prevention vaccination such as DA2PP, DHLPP, or FVRCP within seven days of redemption;
 - (8) Redemption fees renew after 12 consecutive months; and
 - (9) If the owner is identified, but does not redeem or properly surrender the animal, the agent of the Animal Control Department can issue a citation in the maximum appropriate amount for the applicable redemption offense and citation offense and any additional cost incurred by the shelter deemed necessary during impoundment (i.e. first redemption of \$50.00 plus first citation offense of \$25.00 plus flea treatment of \$5.00)
- (Ord. 2019-03, passed 4-2-2019; Am. Ord. 2020- 29, passed 12-15-2020; Am. Ord. 2022-10, passed 6-7-2022; Am. Ord. 2022-17, passed 7- 19-2022; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.11 DOMESTIC ANIMALS AT LARGE.

The owner/harbinger of owned domestic animals shall always prevent their animals from being at large. Owners shall always show responsibility for their animals by keeping them confined to their property and properly restrained while off the premises.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.12 RUNNING AT LARGE IMPOUNDMENT.

(A) Domestic animals found to be running at large may be considered a stray and taken by an agent of the Animal Control Department and/or Police Department and impounded at the animal shelter. Community cats shall not be considered stray or at large. The domestic animal shall be impounded for a period of three days or until such time is claimed by the owner thereof, whichever comes first. Healthy free-roaming cats eligible for a community cat program do not have to be held for three days if they can be sterilized and returned to where they were found in a timely manner.

(B) All reasonable effort will be made to locate owners, harborers, or community cat providers of any animal within the appropriate time period. Redemption fees and release requirements will be applicable as stated in § 91.10 Redemption and Release.

(C) In the event an animal is found running at large and to be irretrievably suffering from injury or illness and an owner/harbinger/community cat provider is unable to be located/contacted in a timely fashion, the animal may be euthanized by injection to the applicable hold period end date.

(1) The Director or the assigned staff member to act on the Director's behalf when not reachable will make the ultimate decision after verifying the condition of the animal and all possible options to identify an owner have been exhausted.

(2) The animal will be thoroughly documented, including photos from multiple angles, and held for a minimum of five days before disposal.

(3) The owner will be responsible for the applicable fees listed under § 91.04 Owner Requested Euthanasia.

(Ord. 1997-5, passed - - ; Am. Ord. 2015-19, passed 12-15-2015; Am. Ord. 2019-03, passed 4- 2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.13 ARREST OR EMERGENCY IMPOUNDMENT.

(A) If an animal is present during an arrest or emergency and the owner is unable to arrange immediate alternative care, the animal will be taken by an agent of the Animal Control Department and/or Police Department and impounded at the animal shelter.

(B) The animal may be impounded for a period of three days or until such time is claimed by the owner or someone designated by the owner thereof, no matter if wearing, implanted, or marked with identification.

(C) Redemption fees and release requirements will be applicable as stated in §91.14 Redemption and Release.

(D) In the event such animal is not claimed, thereafter may be adopted to another party, transferred to another shelter/rescue, relocated, returned to where it was found or euthanized by injection.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.14 REDEMPTION AND RELEASE.

Any animal may be redeemed from the animal shelter by the owner or their designated person within the time stated in this chapter by payment to a staff member of the Animal Control Department.

(A) Redemption fees.

(1) First offense.

(a) The animal is implanted with a microchip and redeemed within 24 hours of impoundment will result in a fee of \$0.

(b) The animal is not implanted with a microchip and redeemed within 24 hours of impoundment will result in a fee of \$10 for a microchip implant.

(c) The animal is redeemed within 48 hours of impoundment will result in a fee of \$25 in addition to a \$10 microchip implant fee if applicable.

(d) Each additional 24 hour period following 48 hours will result in a \$5 fee in addition to the above fees.

(2) Second offense.

(a) The animal is redeemed within 24 hours will result in a fee of \$50.

(b) Each additional 24 hour period following 24 hours will result in a \$5 fee in addition to the above fee.

(3) Third offense.

(a) The animal is redeemed within 24 hours will result in a fee of \$75.

(b) Each additional 24 hour period following 24 hours will result in a \$5 fee in addition to the above fee.

(4) Fourth offense. The animal becomes the property of the animal shelter and may not be returned to the owner.

(B) If the animal required veterinarian care or other additional costs, the owner will be required to pay the costs incurred by the shelter.

(C) Owners are required to produce an unexpired rabies certificate with a veterinarian signature if over the age of four months and veterinarian record of current disease prevention vaccination, such as DA2PP, DHLP, or FVRCP, within seven days of redemption.

(D) Redemption fees renew after 12 consecutive months.

(E) If the owner is identified, but does not redeem or properly surrender the animal, the agent of the Animal Control Department can issue a citation in the maximum appropriate amount for the applicable redemption offense not to exceed the applicable hold period and citation offense as provided in § 130.99, Penalty, and any additional costs incurred by the shelter deemed necessary during impoundment (i.e. first offense redemption of \$40 for a three-day hold plus first citation offense of \$25 plus flea treatment of \$5).

(F) No owner will be allowed to redeem their animal until all assessed fees are paid to a staff member of the Animal Control Department.

(G) An owner/harbinger may redeem their animal past the applicable hold period if the animal is available for adoption and if they pay all assessed fees, including the applicable redemption offense, adoption fee, and any veterinarian care or additional costs incurred by the shelter. At the discretion of the Director, the owner/harbinger may be exempt from the fee of \$5 for each day the animal was in care past the applicable hold period.

(H) The Director may authorize the waiver of fees or fines for good cause.

(Ord. 1997-5, passed - - ; Am. Ord. 2007-11, passed 8-7-2007; Am. Ord. 2013-1, passed 1-2- 2013; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.15 DISPOSITION THROUGH SALE OF UNCLAIMED/SURRENDERED ANIMALS.

The fee for adopting unclaimed/surrendered animals shall be determined by the Director with the approval of the Mayor. Determination will be dependent on the current market and in consideration of the costs incurred by the shelter for the care provided to the animals and benefits provided to adopters. The fees and costs will be reviewed and set at the beginning of each year. Adoption fees may be waived by the Director.

(Ord. 1997-5, passed - - ; Am. Ord. 2011-2, passed 2-15-2011; Am. Ord. 2019-03, passed 4- 2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.16 RABIES VACCINATION REQUIREMENT.

All dogs, owned cats, and ferrets over the age of four months of age are required to be vaccinated and remain current with the vaccination against rabies. Failure to produce an unexpired rabies certificate with a veterinarian signature upon request by an Animal Control Officer will result in a written warning with a deadline to come into compliance. If the owner/harbinger fails to meet the deadline, a citation will be written each day until the owner/harbinger is compliant. All community cats must be vaccinated for rabies at the time they are sterilized.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.17 RABIES CONTROL.

(A) (1) Every animal which is known to have bitten a person and which has not been vaccinated, as provided in the Health and Sanitation Code, shall be reported to the Health Department within 24 hours and quarantined by the Animal Control Director for a period of ten days. It shall be discretionary with the Animal Control Director or its agents whether or not the quarantine is:

- (a) On the premises of the owner or
- (b) At the animal shelter at a cost of \$150 or
- (c) In a veterinarian hospital of the owner's choice with expenses paid by the owner.

(2) Owner will have seven days from the completion of the quarantine to obtain a rabies certificate with a veterinarian signature and veterinarian record of current disease prevention vaccination, such as DA2PP, DHLPP, or FVRCP.

(3) The animal will be required to have a microchip implanted either by the veterinarian of their choosing or by the staff of the Animal Control Department within seven days from the completion of the quarantine.

(B) (1) Every animal which is known to have bitten a person and which has been vaccinated, as provided in the Health and Sanitation Code, shall be reported to the Health Department within 24 hours. A quarantine will not be necessary if the following applies:

(a) Owner is able to produce an unexpired rabies certificate with a veterinarian signature within 24 business hours to the Animal Control Department.

(b) The animal was last vaccinated no less than ten days prior to the reported bite.

(2) The animal will be required to have a microchip implanted, either by the veterinarian of their choosing or by the staff of the Animal Control Department, within seven days from the reported bite.

(C) The owner, upon demand by the Animal Control Director or its agents, shall surrender any unvaccinated animal which is known to have bitten a human being in order that they might supervise the quarantine, the expenses of which is to be borne by the owner and such animal may be reclaimed by the owner at such time as it is adjudged to be free of rabies, upon payment of the fees set forth in this chapter, together with any expenses incurred by the Department in the quarantine of any such animal.

(D) The owner may, during the time that his or her animal is quarantined, have his or her animal, at his or her own expense, observed by a licensed veterinarian and treated for any condition requiring medical care in the opinion of the owner or veterinarian.

(E) In the event an animal placed under quarantine has been determined to be rabid by a licensed veterinarian, the animal shall be euthanized and the head of such animal shall be sent by the City-County Board of Health to the Department of Health of the State at the owner's expense.

(F) No person shall kill, or cause to be killed, any rabid animal determined to have bitten a human being, or remove such animal so suspected from the city without written permission from the Animal Control Director.

(G) In the event an animal which is known to have bitten a human being or an unvaccinated animal in the last ten days and is surrendered or abandoned by the owner will be held responsible for all costs incurred, to include, but not limited to, the quarantine fee of \$150 and any additional costs incurred by the Department in the quarantine of any such animal including the cost of euthanasia and if applicable the costs of rabies testing. Applicable fees can be paid directly to the animal shelter or a citation can be issued to also include in addition the appropriate citation offense fee.

(1) In the event the owner/harbinger intends to ultimately surrender the animal, will have the option to avoid the \$150 fee by completing a ten-day quarantine on the owner's premises before surrendering the animal, but will be required to have the animal microchipped at the cost to the owner at the time of attempted surrender.

(a) At the discretion of the Director, the owner may be required to pay the applicable euthanasia fees as provided in § 91.04, Owner Euthanasia Request, at the time of surrender at the conclusion of the ten-day quarantine.

(2) If the owner/harbinger is able to produce an unexpired rabies certificate with a veterinarian signature at the time of surrender and the animal was vaccinated no less than ten days prior to the reported bite is exempt from the \$150 fee, but at the discretion of the Director may be required to pay the applicable euthanasia fees as provided in § 91.04, Owner Euthanasia Request.

(H) In the event an animal which is known to have bitten a human being or animal is determined to be a stray or surrendered or abandoned by the owner shall be euthanized by injection at the conclusion of its quarantine period or applicable hold period, unless a rescue or another shelter is willing to have the animal transferred to their facility/organization within five days of the conclusion of the quarantine or hold period.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.18 MUZZLING PROCLAMATION.

Whenever the Department of Public Health finds an epidemic of hydrophobia rendering such action necessary, to protect the public health and safety, the Director may recommend that the Mayor issue a proclamation ordering every person owning or keeping a domestic animal to confine it securely on his or her premises unless it is muzzled. No person shall

violate such proclamation, and any domestic animal running at large during the time fixed in the proclamation may be impounded or killed by the police without notice.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.19 NUISANCE BEHAVIOR.

No owner/harbinger shall allow their domestic animal to be a habitual nuisance.

- (A) No habitual nuisance barking, crying, whining, yowling, or other excess animal noises at any time of day.
- (B) No owned domestic animal shall be permitted to defecate on public or private property, unless immediately cleaned up.
- (C) No owned domestic animal shall be allowed to become a nuisance by habitually being at large.
- (D) No owned domestic animal shall be allowed to cause damage to any lawn, garden or other public or private property.
- (E) No domestic animal shall be allowed to procreate without intention in order to prevent the nuisance of unwanted litters and habitually running at large.
 - (1) Males shall always be properly confined or neutered; and
 - (2) Females shall be confined in a way to prevent their scent from attracting males during heat cycle or spayed.
- (F) All owners/harborers shall regularly clean up their animal's excrement from their property to prevent odors and unsightly mess.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.20 ANIMAL DEFECATION PROHIBITED ON PUBLIC WAYS.

It shall be unlawful for any person being the owner of or having custody or control of any domestic animal to permit such animal to defecate upon public streets, roads, alleys or sidewalks or other public or private property, with the exception of the property of the owner or the person having custody or control of the domestic animal, without proper provision for clean up of such excrement.

(Ord. 1997-5, passed - - ; Am. Ord. 2014-7, passed 6-3-2014; Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.21 HOUSEHOLD LIMITATIONS.

No household shall keep or harbor more than four domestic animals anywhere on the premises. The only exceptions are a ten-week period allowed for the placement of puppies or kittens born of any of the four animals on the premises, if in compliance with § 91.22 Community Cat Colonies, or with written permission of the Director of the Animal Control Department for special circumstances.

(Ord. 1997-5, passed - - ; Am. Ord. 2015-19, passed 12-15-2015; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.22 COMMUNITY CAT COLONIES.

- (A) A community cat provider, to receive exception under household limitations, must comply with the following:
 - (1) The community cat provider must be participating, or has participated, in a TNVR program to ensure all cats are sterilized and have been vaccinated against rabies.
 - (a) Free roaming cat(s) without acceptable identification which have been impounded or trapped in the community may be deemed a potential community cat by the Department based on age, health, and behavior. Such cats may be returned to the location found once altered, ear-tipped, and vaccinated.
 - (b) A cat identified as an existing community cat may be immediately returned to the location where it was found and exempted from the legal hold period.
 - (c) The Department shall coordinate with partnering animal welfare organizations and/or veterinarians to offer resource information for establishing opportunities for community cats, community cat providers, humane deterrents, and advice regarding community cat nuisances.
 - (d) A community cat provider shall comply with the following:
 - i. Confine free-roaming cats for and arrange for surgical sterilization, ear tipping, and vaccination for rabies by a licensed veterinarian.
 - ii. Seek veterinary care for or obtain assistance from an animal welfare organization, veterinarian, or the Department for community cats which appear to require medical attention for serious illness or injury.
 - iii. Make reasonable effort to work with the Department or designated animal welfare organization to resolve

habitual nuisance complaints using humane deterrents.

(2) The community cat provider must have all cats within the colony spayed, neutered, and rabies vaccinated, within a timely period to prevent unwanted litters.

(3) The community cat provider will be required to keep the colony healthy. If a cat is to become sick or injured, the community cat provider will either need to have the cat treated by a veterinarian in a timely fashion or have the cat euthanized.

(B) It shall be unlawful to be a hinderance to any TNR efforts including but not limited to, vandalizing traps, releasing animals, removing established cats from colonies, feeding while trapping is in effect and moving traps without approval from shelter staff. Anyone found to be in violation will be imposed with a \$200 fine per violation.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2022- 10, passed 6-7-2022; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.23 ABANDONMENT.

No person, owner or not, shall abandon a domestic animal without making provisions for adequate long term care of the domestic animal and with the permission of the property owner. Cats serviced through a community cat program shall not be considered abandoned. This includes leaving an animal at the animal shelter without permission from a staff member. Anyone found to be in violation will be imposed with a fine of \$150 per animal.

(Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.24 VICIOUS ANIMALS.

(A) An animal is deemed vicious if on one or more prior occasions is known to have attacked any person or domestic animal without warrantable cause. Warrantable cause is deemed if there exist good and reasonable grounds to believe that an attack by an animal was precipitated by one or more of the following circumstances:

(1) The animal itself being deliberately threatened or subjected to unreasonably taunting and teasing by the person or animal attacked;

(2) The animal was acting to protect the person, animal, or property of its owner or keeper from an unlawful intruder or attacker; and/or

(3) A dog is a specially trained animal to be used for guard or law enforcement duties and act on command in that capacity.

(B) *Evidence of viciousness; impoundment; duty of the Animal Control Officer.*

(1) The first occasion on which an animal commits an attack without warrantable cause shall constitute prima facie evidence that the animal is vicious.

(2) Upon being notified of or discovering any such attack, it shall be the duty of the Animal Control Officer to impound the animal in the manner provided by § 91.10 Ordinance Violation Impoundment.

(3) If the animal has succeeded in biting or scratching any person during the attack, the Health Department shall be notified within 24 hours, and the animal may not be released from impoundment without the authorization of the County Health Officer and subject to the redemption fees provided by § 91.17 Rabies Control.

(C) The owner/harbinger shall be required to constantly retrain the animal deemed vicious in one of the following ways:

(1) By keeping the animal confined within an enclosed building on the owner/harbinger's premises.

(2) By having the animal microchipped and sterilized within 30 days.

(3) By keeping the animal within a completely fenced and locked pen of chain link at least six feet high with metal top rail and concrete footing and completely covered with strong material sufficient to prevent the escape of the dog; the pen to be marked with a "beware of dog" sign on all sides.

(4) By walking the animal, only on a strong leash no longer than six feet in length and directly held and controlled by a person over 18 years of age and physically capable of controlling the animal and the animal being muzzled at all times.

(5) By keeping the animal confined within a locked vehicle sufficiently enclosed to prevent the escape of the animal and to prevent innocent passers-by from attempting to pet the animal, but still remaining in compliance with § 91.05 General Animal Care.

(D) Release of a vicious animal from impoundment on the first occasion for a vicious attack shall be redeemed as provided in § 91.17 Rabies Control, but subject to any applicable further restriction as provided under required restraint provision and the following additional requirements:

(1) The animal may only be released directly to its owner/harbinger who acknowledges possession of the animal as his or her property and who is over 18 years of age.

(2) The Animal Control Department shall keep a special record detailing the incident of viciousness and including:

- (a) A description of the animal;
 - (b) The name, address, and phone number of the acknowledged owner/harbinger claiming the animal;
 - (c) A photo of the animal; and
 - (d) A pledge, signed by the owner/harbinger, acknowledging the above and certifying that he or she understands and will strictly abide by the requirements for keeping the vicious animal as prescribed by the required restraint provisions.
- (3) The owner/harbinger shall report any change of address and phone number immediately.
- (4) An owner/harbinger who has signed a pledge as provided above may not sell, give, or transfer principal custody of the animal to another person within the city without informing the other person that the animal is vicious and must be kept in accordance under required restraint.
- (a) The owner/harbinger is required to notify the Animal Control Department if the animal's principal custody has been changed.
 - (b) The new owner/harbinger is required to notify the Animal Control Department of their name, address, phone number, and sign a pledge.
 - (c) In the event the vicious animal commits further attack without warrantable cause, the animal shall be deemed to pose an undue public nuisance and hazard to the public safety and welfare and shall be subject to destruction.
 - (d) The animal shall be impounded by the Animal Control Department for not less than 72 hours before destroying the animal.
 - (e) The Animal Control Department shall inform the owner/harbinger as recorded that he or she may file an appeal with the Board of Works prior to the end of the 72-hour period.
 - (f) If an appeal is so filed, the animal shall be kept impounded pending the Board of Works decision.
 - (g) If the Board of Works decides against destruction, the animal must be redeemed within 24 hours and subject to the redemption fees as provided in § 91.17 Rabies Control.
 - (h) The owner/harbinger will be required to comply with all requirements as provided under required restraint and release of a vicious animal.
- (5) Destruction of an animal impounded under this section may also be delayed by order of the County Health Officer.
- (6) If the animal has succeeded in biting or-scratching any person during the attack, the Health Department shall be notified within 24 hours and the animal will be subject to the quarantine period as provided in § 91.17 Rabies Control.
- (7) The owner/harbinger will be required to pay any fees associated with the impoundment and euthanasia as provided in § 91.17 Rabies Control.

(Ord. 2007-13, passed 11-20-2007; Am. Ord. 2013-16, passed 9-17-2013; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.25 EXEMPTIONS.

Hospitals, clinic and other agencies operated by licensed veterinarians are expressly exempt from the terms of this chapter, except where such duties are otherwise expressly stated.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.26 KENNELS.

No person, firm or corporation shall maintain in this city a kennel.

(Ord. 1997-5, passed - - ; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.27 ANIMAL CONTROL FEES AND CHARGES.

<u>Owner Requested Euthanasia:</u>	
\$25 for injection	
\$15 for disposal of dog	
\$5 for disposal of cat	
\$20 for sedation	
<u>Microchip Purchase, Implant, and Registration:</u>	
\$10	
<u>Redemption Fee:</u>	
1st time:	\$25

2nd time:	\$50
3rd time:	\$75
4th time:	lose ownership rights
<u>Boarding Fee:</u>	
\$5	
<u>Adoption Fee:</u>	
To be determined at the beginning of the year by Director and Mayor	
<u>Quarantine Fee:</u>	
\$150	
<u>Abandonment:</u>	
\$150	
<u>Vicious Animal Requirements:</u>	
\$150	

(Ord. 2019-3A, passed 5-8-2019)

OTHER ANIMALS

§ 91.35 POSSESSION OF CERTAIN ANIMALS AND LIVESTOCK.

It shall be unlawful to keep, maintain, own or possess within the corporate boundaries of the city, any farm animal or its progeny thereof, including but not limited to horses, cows, ponies, calves, sheep, lambs, goats, chickens, guineas, turkeys, ducks, geese, ostriches, lamas, alpacas and pigs.

(Ord. 1997-5, passed - -; Am. Ord. 2008-6, passed 8-4-2008; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.36 HUNTING, TRAPPING OR KILLING PROHIBITED.

No hunting, trapping or killing of any animals, except vermin, within the city. Humanely trapping free-roaming cats for a community cat program is permitted.

(Ord. 1997-5, passed - -; Am. Ord. 2019-03, passed 4-2-2019; Am. Ord. 2023-06, passed 7-3-2023)

§ 91.37 HONEY BEE (*APIS MELLIFERA*) KEEPING.

(A) *Definitions.* As used in this section, the following words, terms and phrases shall have the meanings set forth herein.

APIARY. The assembly of one or more hives or colonies of honey bees at a single location.

BEEKEEPER. A person who keeps honey bees in hive(s) which meet state approved requirements.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

CERTAIN CORPORATE BOUNDARIES. Certain corporate boundaries as defined herein permits beekeeping only in zoned industrial areas with more than 20 acres. Honey bee production in any other area not zoned industrial is strictly prohibited.

COLONY. The entire honey bee family or social unit living together including the queen, workers and drones.

FLYWAY BARRIER. Fencing, dense hedging or a combination of the two, which provides a shield or protective barrier from the direction in which the honey bees fly when approaching or leaving a hive. Flyway barriers assist in deterring honey bees from contact with humans and domesticated animals.

HIVE. A frame or structure used or employed as a domicile for honey bees which meet state approved requirements.

HONEY BEE. The common domestic honey bee, limited to the *Apis mellifera* species, specifically excluding the African honey bee, *Apis mellifera scutellata* or Africanized honey bee, or any hybrid thereof.

LOT. A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:

- (1) A single lot or record; or
- (2) A combination of complete lots of record.

(B) *Honey bee restrictions.*

(1) Any person desiring to raise the common domestic honey bee, limited to the *Apis mellifera* species, must comply with the following public safety regulations.

(2) A completed application, provided by the City of Rushville, for the keeping of *Apis mellifera* species, commonly known as honey bees shall be submitted to the Animal Control Officer's or their designee along with the required fees of \$25 per beehive, prior to the installation of any beehive.

(3) The completed application shall be accompanied by a site plan, drawn to scale, of the property and include the following information:

- (a) Gross square footage of property where beehives are to be kept.
- (b) Gross cubic feet of beehives.
- (c) Beehive height above finished grade.
- (d) Distance from all hives to property lines, public street, public alleys, public sidewalks or pathways.
- (e) A copy of registration documents indicating all colonies are registered with the Indiana Department of Natural Resources Division of Entomology and Plant Pathology annually.
- (f) Documentation indicating the applicant has completed the Indiana State Beekeepers Association classes.

(C) *Honey bee keeping public safety regulations.*

(1) Hives shall be permitted to be either the Langstroth Hive or Warre' (Peoples') Hive and shall not exceed 17 cubic feet in volume. No other hives shall be permitted.

(2) Numbers.

(a) The number of beehives permitted on a given parcel, based on gross lot area is five acres or more, and the maximum number of hives is 12.

(b) A temporary hive (a/k/a nuc hive) may be used temporarily to prevent swarming. The temporary hive shall be immediately removed from use when the hive(s) are re-established.

(3) Queens. Queens shall be purchased from licensed breeders/beekeepers, and an aggressive colony shall be re-queened immediately.

(4) Location. Hives shall be located in the rear yard. In the absence of a rear yard, hives shall be confined to a side yard, but no closer than ten-feet from public sidewalk, pathway, streets, or alleys measured by straight lines from the center of the hive.

(5) Orientation: beehives. A flyway barrier shall be installed for all hives located within ten-feet of the property line, public sidewalk, street, alley or pathway. The flyway barrier shall be installed no further than four-feet in front of the hive entrance. The flyway barrier must be wide enough to extend two-feet on each side of the hive.

(6) Water. All beehives shall have a source of water on the lot on which the beehive is located shall be available at all times during the year. The water source shall be located near the beehive entrance/exit. The water source shall be at least the size of an average bird bath, as to not encourage bees to visit swimming pools, hose bibs, pet watering bowls, or other sources where bees may cause human or domestic pet harm.

- (a) The water supply provided shall not become stagnant.

(D) *Compliance required; penalties.*

(1) It shall be unlawful for any person to keep or maintain an apiary, hive, or colony in the city which is not in compliance with this section.

(2) Any person violating any of the provisions of this section shall be issued a citation by the Animal Control Officer or their designee, which provides for a fine of:

- (a) First offense: \$75.
- (b) Second offense: \$100.

(3) Violations.

(a) Each violation shall constitute a separate and distinct offense. Every day any violation of this section shall continue shall constitute a separate offense.

(b) Any apiary, hive or colony which threatens public health or safety; or creates a public nuisance; or which has been abandoned is unlawful. The city is authorized to take all reasonable action including removal and/or destruction of any apiary, hive or colony which is deemed necessary.

(c) Nothing in this section shall prohibit member of the Beekeepers Association from entering the city to remove hives or swarms.

(d) Any individual that recklessly disturbs or molests an apiary, hive, colony, or other honey bee habitat, without permission of the owner shall be subject to all criminal penalties permitted by law.

(Ord. 2018-9, passed 7-17-2018)

§ 91.99 PENALTY.

Violators of this chapter commit a class C infraction.

(Ord. 1997-5, passed - -; Am. Ord. 2017-26, passed 10-3-2017; Am. Ord. 2019-03, passed 4- 2-2019; Am. Ord. 2023-06, passed 7-3-2023)