

Kokomo, IN Code of Ordinances

CHAPTER 90: ANIMALS

Section

- 90.01 Definitions
- 90.02 Prohibitions
- 90.03 Restraint by tethering
- 90.04 Authority of authorized agents
- 90.05 Apprehension and impounding of animals
- 90.06 Notice to owner
- 90.07 Redemption and disposition of impounded animals
- 90.08 Disposition of monies collected

- 90.98 Enforcement
- 90.99 Penalty

Cross-reference:

Health and sanitation, see § 95.58

Shod animals in public parks, see § 96.30

Statutory reference:

Power of city to regulate, license, and prohibit animals, see IC 36-8-2-6

Prohibition against livestock or poultry running at large, see IC 15-17-18-8

§ 90.01 DEFINITIONS.

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

“ANIMAL.” Any live, non-human vertebrate creature, domestic or wild.

“ANIMAL SHELTER.” Any facility operated by the Department of Animal Services or a municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

“AT LARGE.” Elsewhere than on the owner’s premises, and:

- (1) Not restrained by a leash; or

(2) Not under the immediate and complete control of a person capable of controlling such animal.

“AUTHORIZED AGENT.” Law enforcement officer or authorized employees of the Department of Animal Services.

“CAT.” All domestic members of the feline family of animals.

“DEPARTMENT OF ANIMAL SERVICES.” The animal care and control department of the Kokomo Humane Society.

“DOG.” All domestic members of the canine family of animals.

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

“HEALTH DEPARTMENT.” Howard County Health Department.

“LESS SEVERE INJURY.” Any injury caused that results in a minor puncture, piercing or breaking of the skin made with teeth, fangs or claws of any animal that does not require extensive medical treatment.

“OWNER.” Any person or persons owning or having the care, custody, or control of any animal.

“PERSON.” Any individual, firm, association, partnership, or corporation.

“POTENTIALLY DANGEROUS DOG.” Any of the following:

(1) Any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the dog owner’s property.

(2) Any dog which, when unprovoked, bites a person causing a less severe injury as defined above.

(3) Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

(4) Chases or menaces a person.

(5) Runs at large.

“PUBLIC NUISANCE.” Any animal or animals that:

(1) Attack passers-by or passing vehicles.

(2) Damage public or private property.

(3) Are not confined while in estrus (“heat”).

(4) Bark, whine, or howl in an excessive or continuous fashion, unreasonable under the circumstances, as to violate the peace and quiet of the neighborhood.

“RABIES VACCINATION.” All dogs, cats and ferrets three months of age and older must be vaccinated against rabies.

“RESTRAINT.” The securing of an animal by leash or confining it within the real property limits by its owner.

“STRAY.” Any animal that does not appear, upon reasonable inquiry, to have an owner.

“VICIOUS DOG.” Any dog that according to the records of the Department of Animal Services:

(1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury or death on a human being on public or private property; or

(2) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting.

(3) Has been listed as a potentially dangerous dog by the Department of Animal Services, and exhibits behavior warranting listing as a vicious dog.

“WILD ANIMALS.” Any non-domesticated animal, with the exception of small non-poisonous aquatic or amphibious animals and small caged birds.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14)

§ 90.02 PROHIBITIONS.

(A) The following prohibitions shall apply, and be enforceable in, the City of Kokomo, Indiana.

(B) It shall be unlawful for any owner to allow, suffer, or permit an animal to be at large within the city; except that it shall be permissible during hunting season prescribed by state law for hunting dogs to be allowed to hunt with their owners on private property when permission has been obtained from the owner of the real estate and to hunt on state lands where allowed.

(C) It shall be unlawful for any person to hinder, molest, or interfere with any authorized official in the performance of any duty described in this chapter.

(D) It shall be unlawful for the owner of any animal to permit the animal to be a public nuisance within the city. Furthermore, it shall be unlawful for any owner of

any animal to recklessly or carelessly fail to exercise care and control over the animal in such a way that the animal is a public nuisance.

(E) It shall be unlawful for any person to own, keep, or harbor a vicious dog or wild animal within the city; provided, that this division (E) shall not apply to animals under the control of a law enforcement or military agency. For the purpose of this chapter, an animal may be declared dangerous by the Department of Animal Services.

(F) Confinement of dangerous animals. No person owning, harboring or having the care of a dangerous animal shall permit such animal to go unconfined on the premises of such person. A dangerous animal is “UNCONFINED” as the term is used in this division (F) if such animal is not:

(1) Confined indoors without access to exterior entrances and windows; or

(2) (a) Confined outdoors in an enclosed and locked pen or structure upon the premises of the person described above; provided the existence of such pen or structure is permitted by zoning regulations. Maintenance of a dangerous animal is not permitted in areas where such structures or pens are not authorized by zoning regulations. If permitted, such pen or structure shall be:

<i>SIZE OF ANIMAL</i>	<i>SQUARE FEET OF PEN</i>
Extra large (over 26 inches at withers or over 75 lbs.)	48
Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)	40
Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)	32
Small (12 inches or less at withers or not over 20 lbs.)	24

(b) The pen must be constructed with chain link fencing for all four sides and the top. If the pen or structure has no bottom secured to the sides, the sides must be imbedded in the ground no less than one foot, or have a concrete pad for the bottom. The pen or structure shall be set back at least ten feet from the nearest property line.

(3) No potentially dangerous dog shall be chained, tethered or otherwise tied to an inanimate object, such as a tree or post of a building that is outside its proper enclosure while unattended by the owner or competent custodian.

(4) The owner of a potentially dangerous animal shall consent to periodic inspections by the Department of Animal Services.

(5) The owner of any potentially dangerous dog shall have such dog permanently identified by means of a microchip at the owner’s expense, and the owner of any

potentially dangerous dog shall provide the Department of Animal Services with a color photograph of the dog taken within the last 12 months, suitable for use in identifying the dog.

(6) Any potentially dangerous dog, which has escaped from its fenced enclosure, may be impounded by the Department of Animal Services, whether or not it has been returned to its enclosure at the time of impoundment. If impoundment pursuant to this division (F)(6) occurs, the animal shall not be returned to a person responsible for it.

(7) The owner of a potentially dangerous dog must have posted on the premises a clearly visible warning sign, reading in letters not less than two inches high "Beware of Dog" at each entry point that informs both children and adults of the presence of a potentially dangerous dog.

(8) A potentially dangerous dog must not be outside a proper enclosure unless the dog is muzzled and securely restrained by a leash of not more than six feet in length and under the control of the owner or competent custodian 18 years of age or older. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but will prevent it from biting any human or animal. The owner may exercise the dog outside of its primary enclosure without a muzzle or leash if the dog remains on the owner's property with the secured perimeter fence and only if the dog remains within the owner's sight and control at all times and only members of the owner's immediate household or persons 18 years of age or older are allowed within the perimeter fence while the dog is present. When being transported, such dog must be safely and securely restrained within the vehicle.

(9) A potentially dangerous dog must be spayed or neutered within 30 days of determination that the dog is potentially dangerous.

(10) Any potentially dangerous dog found at large or not confined as required by this section may be captured and impounded, and it 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 this section. If such determination cannot be made or if the dog's actions have caused severe injury, the enforcement officer shall apply to a court of competent jurisdiction for an order to dispose of the animal.

(G) It is unlawful to deprive any animal of necessary food, drink, or shelter or expose to the elements of the weather and to the extremes of heat or cold, or refuse to obtain veterinary care for illness, injury, disease or infirmity, or willingly instigate, engage in, or in any way further an act of cruelty to any animal, or any act to produce such cruelty. All animals, where kept inside, or in a pen, tied, fastened, hitched, leashed or enclosed by a fence shall be kept in a sanitary manner.

(H) A violation of this section shall subject the violator to a civil fine of not less than the amount designated in § 90.99. Additionally, upon the third violation of this

section, the animal shall be seized and impounded. If such violation results in the dog causing serious injury to any person, the court may, upon request after a hearing, order the animal forfeited and/or destroyed.

(I) Any potentially dangerous dog found at large or not confined as required by this chapter may be captured, impounded and it 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 this chapter. If such determination cannot be made or if the dog's actions have caused serious injury the enforcement officer shall apply to a court of competent jurisdiction for an order to dispose of the animal.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14) Penalty, see § 90.99

§ 90.03 RESTRAINT BY TETHERING.

Restraint by tethering may be used provided the following conditions are met:

(A) The tether shall not weigh more than one-eighth of the animal's body weight. When a violation of this provision occurs, the Department of Animal Services is authorized to take reasonable measures to remove the animal from the tether and take the tether and animal to the shelter;

(B) The tether shall be at least ten feet in length with operative swivels on both ends;

(C) The tether shall be attached to a properly fitted collar or harness worn by the animal; the tether may not be attached to a slip or prong collar; and

(D) The animal, while restrained by tether, is able to access proper shelter with sufficient floor, at least three walls, and roof to protect the animal from the weather, extreme temperatures and direct sunlight; and is able to access sufficient potable water and sufficient wholesome food.

(E) In the interest of public safety, animal control officers are authorized to remove aggressive and vicious dogs from tethers and impound such animals where the animal is accessible by children or the public without a secured fence or enclosure.

(F) A violation of this section shall subject the violator to a civil fine of not less than the amount designated in § 90.99.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14)

§ 90.04 AUTHORITY OF AUTHORIZED AGENTS.

Any authorized agent of the city is given authority to:

(A) Kill any vicious or potentially dangerous dog found at large within the city which cannot be safely captured and impounded by ordinary means; except that every reasonable effort shall be made to avoid killing an animal which has bitten or is suspected of having bitten a person or which appears to have rabies. If the killing of the animal cannot reasonably be avoided, the authorized agent shall attempt to kill the animal in such a manner so as to preserve the head thereof intact.

(B) Enter upon the private and public land in the city when in pursuit of any animal which the agent has reasonable cause to believe is in violation of this chapter, except that such agent is not authorized to enter any building without the consent of the occupant.

(C) Issue citations for any alleged violation of this chapter even if not personally observed by the agent.

(D) Do all things necessary to effectuate the enforcement of this chapter.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14) Penalty, see § 90.99

§ 90.05 APPREHENSION AND IMPOUNDING OF ANIMALS.

It is the duty of persons and agencies so authorized by the city to apprehend and impound:

(A) Any dog or cat at large, or any dog or cat deemed a public nuisance.

(B) Any animal which has bitten or is suspected of having bitten a person or which appears to have rabies.

(C) Any vicious dog.

(D) Any potentially dangerous dog outside of its secure structure.

(E) Any animal at large without proper rabies tag to confirm updated vaccination.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14)

§ 90.06 NOTICE TO OWNER.

Not later than three days after impounding of a dog which was wearing an identification at the time of its impoundment, the Department of Animal Services shall notify the owner advising of the impounding of the dog. If the owner fails to redeem the dog within five days after notice by mail, phone or electronic mail, the owner loses ownership of the dog and it may be destroyed or possession given to the Department of Animal Services. This notice provision shall apply to any animal impounded under this chapter.

(Ord. 6656, passed 4-23-12)

§ 90.07 REDEMPTION AND DISPOSITION OF IMPOUNDED ANIMALS.

(A) Any healthy dog or cat apprehended or impounded may be redeemed by the owner or other persons as authorized in § 90.06 within five days of such apprehension, upon showing that the dog or cat has current rabies vaccination tag or certificate, and the payment of the following fees:

(1) If the dog or cat has been apprehended by an agent of the city, the sum or fee set forth annually by the Department of Animal Services; and

(2) A reasonable fee for room and board for each day, or fraction thereof, during which the dog or cat was impounded.

(3) After five days, the dog or cat may be destroyed or possession given to the Department of Animal Services.

(4) Divisions (A)(1), (2), and (3) above shall apply to any animal impounded under this chapter.

(B) Any animal impounded, for any reason, which appears to any duly licensed veterinarian to have any infectious or contagious disease, other than rabies, may be destroyed forthwith.

(C) Any person bitten by an animal must report the incident to the Howard County Health Department and the Department of Animal Services.

(D) Any dog or cat apprehended and impounded for having bitten a person, being suspected of having bitten a person, or appearing to have rabies, shall be assessed by the Department of Animal Services to determine whether the bite constitutes the dog or cat being vicious or potentially vicious. If so assessed, the provisions of this chapter related to those dogs or cats shall supersede this provision. Otherwise, the dog or cat shall be kept under observation at the Department of Animal Services for a minimum of ten days unless such dog or cat shall sooner die. At the expiration of the ten-day period, the animal may be redeemed by the owner or other person as provided in § 90.06, upon showing that the animal has a rabies vaccination tag and by payment of the fees as set forth in division (A) hereinabove; provided, however, home quarantine of an owned animal may be allowed by the Howard County Health Department.

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14)

§ 90.08 DISPOSITION OF MONIES COLLECTED.

All fines collected pursuant to this chapter shall be paid to the City Controller and deposited in the city's general fund. Payment shall be to the appropriate office in City Hall.

(Ord. 6656, passed 4-23-12)

§ 90.98 ENFORCEMENT.

The Department of Animal Services shall be primarily responsible for the enforcement of this chapter. Additional enforcement shall be through proceedings brought by the Kokomo City Attorney pursuant to IC 36-1-6-3 and the related Indiana statutes referred to therein.

(Ord. 6656, passed 4-23-12)

§ 90.99 PENALTY.

Fine Schedule: Persons found to have violated this chapter shall pay a fine in the amount listed below:

<i>REFERENCE</i>	<i>FIRST OFFENSE</i>	<i>SECOND OFFENSE</i>	<i>THIRD OFFENSE</i>
<u>Prohibitions (§ 90.02)</u>			
Animal at large	\$250	\$400	\$500
Interference with authorized official's duties	\$500	\$1,000	\$1,500
Public nuisance	\$250	\$400	\$500
Ownership of vicious dog or wild animal	\$500	\$1,000	\$1,500
Violation of potentially dangerous dog	\$350	\$500	\$750
Violation of food, drink and shelter	\$350	\$500	\$750
<u>Tethering (§ 90.03)</u>			
Violation of tethering requirements	\$250	\$500	\$750

(Ord. 6656, passed 4-23-12; Am. Ord. 6769, As Amended, passed 9-8-14)