

ORDINANCE NO. 2008-BCCO-6

AN ORDINANCE FOR THE CONTROL OF ANIMALS WITHIN THE UNINCORPORATED AREAS OF HOWARD COUNTY, INDIANA, PROHIBITING ANIMALS FROM BEING AT LARGE, PROVIDING FOR THE IMPOUNDMENT OF ANIMALS, REPEALING PRIOR ORDINANCES, AND PROVIDING REGISTRATION, OTHER FEES AND PENALTIES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HOWARD THAT:

SECTION 1. – DEFINITION OF TERMS. As used in this Ordinance unless the context otherwise indicates.

- A. “Animal” means any live, non-human vertebrate creature, domestic or wild.
- B. “Animal shelter” means any facility operated by 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 Ordinance or State Law.
- C. “At large” means 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.
- D. “Authorized agent” means law enforcement officer or authorized employees of the Department of Animal Services.
- E. “Cat” means all domestic members of the feline family of animals.
- F. “Dangerous Dog” means 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 Dangerous Dog.

G. “Department of Animal Services” means the animal care and control

department of the Kokomo Humane Society.

H. “Dog” means all domestic members of the canine family of animals

I. “Harbor” means the actions of any person who permits any animal to habitually remain or lodge or to be fed within his 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 (3) days.

J. “Health Department” means Howard County Health Department.

K. “Kennel” means a facility operated principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats. The facility must be located a minimum of 1000 feet from the closest dwelling.

L. “Less Severe Injury” means 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.

M. “Owner” means any person or persons owning or having the care, custody, or control of any animal.

N. “Person” means any individual, firm, association, partnership, or corporation.

O. “Potentially Dangerous Dog” means 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 property of the dog's.

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

(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

P. "Public nuisance" means 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.
5. Do not have a permanent means of identification as provided for in this ordinance.
6. It shall also be a public nuisance to harbor more than four (4) dogs or cats over the age of four (4) months, unless classified as a kennel.

Q. "Restraint" means the securing of an animal by leash or confining it within the real property limits by its owner.

R. "Secure Enclosure" means that the dog is securely and humanely confined on the owner's property within a house, building, locked pen or other enclosure that is designed to prevent the potentially dangerous dog from escaping over,

under or through the enclosure (known as the “primary enclosure”). If the dog is maintained outside, a portion of the owner's property must be fenced with a secured perimeter fence of sufficient height and strength to prevent entry by the public and to prevent the dog’s escape from the owner’s property.

- S. “Stray” means any animal that does not appear, upon reasonable inquiry, to have an owner.
- T. “Unincorporated area of Howard County” means all areas of Howard County not located in the City of Kokomo and the towns of Russiaville and Greentown.
- U. “Wild animals” means any non-domesticated animal, with the exception of small non-poisonous aquatic or amphibious animals and small caged birds.

SECTION 2. – PERMANENT IDENTIFICATION OF DOGS AND CATS REQUIRED

- A. A person who owns a dog or cat in the unincorporated area of Howard County shall ensure that it bears a permanent means of identification at all times.
- B. The means of identification shall be in addition to any tags required to be worn by dogs or cats by state law and shall be either by means of
  - 1. A microchip implanted in the dog or cat 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 and bearing the owner’s name, address and telephone number.

3. Each veterinarian who implants microchips shall send the updated microchip information to the Department of Animal Services or other designated entity by Howard County at least monthly.

SECTION 3. – PROHIBITIONS AND PENALTIES

- A. The following prohibitions and penalties shall apply, and be enforceable in, the unincorporated areas of Howard County.
- B. It shall be unlawful for any owner to allow, suffer, or permit an animal to be at large within the unincorporated area of Howard County.
  1. 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 thereof 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 Ordinance.
- D. It shall be unlawful for the owner of any animal to permit said animal to be a public nuisance within the unincorporated area of Howard County.

Furthermore, it shall be unlawful for any owner of any animal to recklessly or carelessly fail to exercise care and control over said 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 dangerous dog or wild animal within the Howard County; provided this section shall not apply to animals under the control of a law enforcement or military agency.

For the purpose of this Ordinance, an animal may be declared dangerous by the Department of Animal Services.

- F. Every person responsible for a potentially dangerous dog shall:
- a. Obtain and maintain a secure enclosure to confine the dog and must have posted on the premises a clearly visible warning sign, reading in letters not less than two (2) inches high "Beware of Dog", at each entry point that informs both children and adults of the presence of a vicious dog on the property.
  - b. In order to protect the public and to afford relief from the severe harm and injury that is likely to result from a dog attack, the owner of a vicious dog shall obtain and maintain insurance in the minimum amount of \$50,000 to provide for insurance against liability for damage to persons and property caused by the vicious dog. Insurance shall be provided by an insurance company authorized to do business in the State of Indiana, and the owner shall file a certificate of insurance with the Department of Animal Services.
  - c. 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 is under the control of the owner or competent custodian eighteen 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 only if the dog remains on the owner's property within 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 eighteen 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 a vehicle.
  - d. No potentially dangerous dog shall be chained, tethered or otherwise tied to any inanimate object, such as a tree, post or building that is outside its proper enclosure while unattended by the owner or competent custodian.
  - e. The owner of a potentially dangerous animal shall consent to periodic inspections by the Department of Animal Services.
  - f. 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.

g. 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 impounded pursuant to this subsection the animal shall not be returned to a person responsible for it.

G. Whoever violates any provision of this Ordinance shall be subject to a fine of not more than Two-thousand-Five-hundred Dollars (\$2,500.00).

Additionally, upon the third violation of this ordinance, the animal shall be seized and impounded. If such ordinance 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.

H. Any potentially dangerous dog found at large or not confined as required by this ordinance 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 ordinance. 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.

SECTION 4. – Any Authorized agent of Howard County is given authority to:

A. Kill any dangerous, or potentially dangerous dog found at large within the unincorporated area of Howard County 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 said authorized agent shall attempt to kill the animal in such a manner so as to preserve the head thereof intact.

- B. Enter upon the land in the unincorporated area of Howard County when in pursuit of any animal which the said agent has reasonable cause to believe is in violation of this Ordinance, except that such agent is not authorized to enter any building without consent of the occupant.
- C. Issue Citations for any alleged violation of this Ordinance even if not personally observed by the agent.
- D. Do all things necessary to effectuate the enforcement of this Ordinance.

#### SECTION 5. – APPREHENSION AND IMPOUNDING OF ANIMALS

- A. It is the duty of persons and agencies so authorized by Howard County to apprehend and impound:
  - 1. Any dog or cat at large, or any dog or cat deemed a public nuisance.
  - 2. Any dog not wearing a proper registration tag.
  - 3. Any dog or cat not wearing a proper rabies vaccination tag, OR
  - 4. Any animal which has bitten or is suspected of having bitten a person or which appears to have rabies.
  - 5. Any Dangerous Dog.
  - 6. Any Potentially Dangerous Dog outside of its secure structure.

#### SECTION 6. – NOTICE TO OWNER

Not later than three (3) days after impounding of a dog which was wearing an identification or registration tag at the time of its impoundment, the caretaker shall notify

the owner advising of the impounding of the dog. If the owner fails to redeem said dog within five (5) 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 Ordinance.

SECTION 7. – 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 Section 6 within five (5) days of such apprehension, upon showing that the dog has a current registration tag and the dog or cat has current rabies vaccination tag, and the payment of the following fees:
1. If the dog or cat has been apprehended by an agent of Howard County, the sum of 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 (5) days, the dog or cat may be destroyed or possession given to the Department of Animal Services.
  4. Subparagraphs 1, 2, and 3 of this Section shall apply to any animal impounded under this Ordinance.
- 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.
- 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 being dangerous or potentially dangerous. If so assessed the provisions of this ordinance related to those dogs 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 (10) days unless such dog or cat shall sooner die. At the expiration of said ten (10) day period, the animal may be redeemed by the owner or other person as provided in Section 6, upon showing that the dog has a current registration tag and the animal has a rabies vaccination tag and by payment of the fees as set forth in Section A hereinabove; provided, however, home quarantine of an owned animal may be allowed by the Howard County Health Department.

#### SECTION 8. – DISPOSITION OF MONIES COLLECTED

All monies or fines collected pursuant to this ordinance shall be paid to the Howard County Auditor.

#### SECTION 9. – ENFORCEMENT

The Department of Animal Services shall be primarily responsible for the enforcement of this Ordinance additional enforcement shall be through proceedings brought by the Howard County Attorney or assistant Howard County Attorney pursuant to IC 36-1-6-3 and the related Indiana statutes referred to therein.

SECTION 10. – REPEAL OR PRIOR AND CONFLICTING ORDINANCES

Ordinances 90.01, 90.02, 90.03, 90.04, 90.05, 90.06, 90.07, 90.99 and 2000-BCC-55 are hereby repealed.

SECTION 11. – SEVERABILITY

It is the intent of the Howard County Commissioners that each separate provision, section, sentence, and clause of this Ordinance shall be deemed independent of all other provisions herein, and it is further the intent of the Board of Commissioners that if any provisions of this Ordinance shall be declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 12. – EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

Passed this 18th day of February, 2008, and adopted.

BOARD OF COMMISSIONERS OF HOWARD COUNTY.

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Bradley J. Bagwell, President

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David Trine, Vice-President

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Paul Raver, Member

Attest:

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Ann Wells, Auditor