

**ORDINANCE NO. 5212**

**AN ORDINANCE REPEALING ORDINANCES NUMBERED 3859,  
4164, 4261, 4322, AND 4684; AND ESTABLISHING A NEW ANIMAL  
CONTROL ORDINANCE AND AN ANIMAL CONTROL ORDINANCE  
FUND FOR THE CITY OF ELKHART, INDIANA**

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**ORDINANCE NO. 5212**

**AN ORDINANCE REPEALING ORDINANCES NUMBERED 3859, 4164, 4261, 4322, AND 4684; AND ESTABLISHING A NEW ANIMAL CONTROL ORDINANCE AND AN ANIMAL CONTROL FUND FOR THE CITY OF ELKHART, INDIANA**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. This Ordinance repeals Ordinances Numbered 3859, 4164, 4261, 4322, 4684, and replaces them with this Ordinance.

Section 2. Authorization. This Ordinance is enacted pursuant to the general police power, and authority granted to cities and towns by Indiana Code 36-1-3 and Indiana Code 36-8-2.

Section 3. Purpose and Intent. The purpose of this Ordinance is to promote the public health, safety, and general welfare of the citizens of the City of Elkhart, Indiana, and to ensure the humane treatment of animals by regulating the care and control of animals within the corporate boundaries of the City.

Section 4. Title. This Ordinance shall be known as the Animal Control Ordinance of the City.

Section 5. Definitions. When used in this Ordinance, the following words, terms, and phrases, and their derivations shall have the meanings ascribed

to them in this Section, except where the context clearly indicates a different meaning:

(A) **“Abandon”** means to deposit, leave, drop-off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under Section 12.

(B) **“Adult Animal”** means an animal that is six (6) months of age or older.

(C) **“Animal”** means any live, vertebrate creature, both domestic and wild, except humans.

(D) **“Animal control officer”** means an employee or agent of the City, designated by the Mayor to administer and enforce the licensing, inspection and enforcement requirements contained within this Ordinance.

(E) **“Altered Animal”** means any animal that has been operated on or has been give medication to prevent it from procreating.

(F) **“Animal hospital”** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of animal diseases and injuries.

(G) **“Animal nuisance”** means any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

(H) **“Animal shelter”** means any facility operated by the City or its authorized agent for the temporary care, confinement and detention of animals and for the humane killing and other disposition of animals. The term shall also

include any private facility authorized by the Mayor to impound, confine, detain, care for or destroy any animal.

(I) **“At heel”** means a dog is directly behind or next to a person and obedient to that person’s command.

(J) **“At large”** means that an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

(K) **“Bite”** means to seize, tear, wound, cut with the teeth, resulting in a break in the skin.

(L) **“Board”** means Board of Public Safety of the City of Elkhart.

(M) **“Breeder”** means any person who for any form of compensation or consideration intentionally causes the breeding of a cats or dogs or makes cats or dogs available for breeding purposes: or any person who offers for sale, sells, trades, or receives compensation for any dog or cat. A person who takes a litter of dogs or cats to the humane shelter is not a breeder.

(N) **“City”** means the City of Elkhart, Indiana, a municipal corporation of the State of Indiana.

(O) **“Cruelty”** means any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drinking water, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in sufficient quantity. In the case of activities such as medical and scientific

research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, where physical pain is necessarily caused, “cruelty” shall mean a failure to employ the most humane method reasonably available.

(P) **“Disposition”** means adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. “Disposition” includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

(Q) **“Domestic animal”** includes dogs, cats, domesticated sheep, horses, cattle, goats, pigs, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other animals raised and/or maintained in confinement.

(R) **“Exotic animal”** means any animal whose normal native habitat is not indigenous to Elkhart County, Indiana. The term exotic animal does not include (1) any fish, (2) and fur-bearing animals commercially bred for the furrier trade, and (3) any birds protected under any federal law.

(S) **“Farm animal”** means any live domesticated sheep, horses, cattle, goats, pigs, fowl, chickens, ducks, geese, turkeys or other animals raised and/or maintained on agricultural farms.

(T) **“Foster home”** means a place where any animals are temporarily being kept until the animals are permanently adopted by a person.

(U) **“Guard or attack dog”** means a dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

(V) **“Harbor”** means to permit an animal to remain, to be lodged or to be fed within one’s 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 consecutive days or more.

(W) **“Humane Officer”** means any person(s) designated by the City or an agency of the State, to perform any duties related to animals prescribed by City or State law.

(X) **“Impoundment”** or **“impound”** means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative of the City.

(Y) **“Kennel”** means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

(Z) **“Microchip”** means a computer chip, containing identifying information about an animal, which is implanted underneath the skin of that animal (in the universal position between the shoulder scapulas).

(AA) **“Muzzle”** means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(BB) **“Person”** means an individual, firm, corporation or commercial establishment.

(CC) **“Pet shop or Mobile pet shop”** means any person, or group of persons, whether separately or in connection with another business enterprise, who possess, display and sell animals to the public.

(DD) **“Public nuisance animal”** or **“Public nuisance”** means any animal that unreasonably annoys humans, endangers the life or health of humans or other animals, or substantially interferes with the rights of citizens, other than its owners, to enjoy their life or property. The term “public nuisance animal” or “public nuisance” shall include, but not limited to:

- (1) Any animal that is found running at large;
- (2) Any dog or cat in any section of a park or public recreation area not controlled by a leash or similar physical restraint;
- (3) Any animal that damages, soils, defiles or defecates on any property other than that of its owner;
- (4) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or other individuals in close proximity to the premises where the animal is kept or harbored;
- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates an unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;

(7) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of humans in a public right-of-way.

(8) Any animal that chases a motor vehicle in a public right-of-way;

(9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

(EE) **“Sanitary”** means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(FF) **“Small confined animals”** means any small mammals, birds, reptiles, amphibians, and fish kept as a pet in a small enclosed cage or aquarium.

(GG) **“State”** means the State of Indiana.

(HH) **“Under restraint”** means that an animal is secured by a leash not exceeding six (6) feet in length, and under the control of a person physically capable of restraining the animal and obedient to that person’s commands, or securely enclosed within the real property limits of the owner’s premises.



**(II) “Vicious or dangerous animal”**

(1) means any animal which:

(a) has seriously injured a human, domestic animal, or farm animal;

(b) has without provocation attacked, bitten, pursued, or attempted to attack, bite, or pursue a human, whether on or off the property of its owner or the owner’s agent;

(c) has attacked or bitten a domestic animal, or farm animal while on or off the property of its owner or the owner’s agent; or

(d) has been found to be at large and has been documented to be at large by an animal control officer on three (3) or more separate occasions.

(2) No animal shall be considered a vicious or dangerous animal if:

(a) the animal injures a human, while that human is: committing or attempting to commit, a trespass or crime on the premises which premises are lawfully occupied by the owner of the animal;

(b) the animal is being provoked, tormented, abused or assaulted by a human or was provoked, tormented, abused or assaulted repeatedly by a particular human in the past and again is being provoked, tormented, abused, or assaulted by this same human; or

(c) the animal injures a human or other animal while responding to pain or injury, protecting itself or its offspring, or protecting or defending a human within the immediate vicinity of the animal from an actual or imminent attack or assault by a human or other animal.

(3) A police dog (K-9) shall not be considered a vicious or dangerous animal when used in the line of duty or for law enforcement purposes.

(JJ) **“Wild animal”** means any animal not a domestic or exotic animal.

The term wild animal shall not include: (1) small nonpoisonous aquatic or amphibious animals, or (2) small caged birds, which are normally found in the wild.

Section 6. Exotic Animals.

(A) Except as provided in Subsection 8 (B) and (C), it shall be unlawful for any person to own, possess, maintain, or harbor on any property within the corporate boundaries of the City any exotic animal. The Animal Control Officer, Humane Officer, or Police Officer shall impound and dispose of any exotic animal found within the corporate boundaries of the City.

(B) A licensed veterinarian may possess, maintain, or harbor on real property located within the corporate boundaries of the City any exotic animal if:

(1) the licensed veterinarian is providing medical treatment and care to the exotic animal, and this type of activity is permitted on the real property by the City's Zoning Ordinance; or

(2) the licensed veterinarian possesses a valid permit issued by the proper state or federal authority to possess or maintain, and rehabilitate, the exotic animal for scientific research or study, and the licensed veterinarian's activities are in compliance with that permit.

(C) A licensed circus vendor or owner of a petting zoo may possess, maintain, or harbor exotic animals and/or farm animals within the City's boundaries if:

(1) the circus or the petting zoo is providing entertainment and the use of the animals is part of the performance traditionally used for such an event, and

(2) the circus or the petting zoo has received a valid permit from the City.

Section 7. Farm Animals.

(A) Except as provided in Subsection 8 (B), no person shall own, possess, maintain, or harbor on any property within the corporate boundaries of the City any farm animals. The Animal Control Officer, Humane Officer, or Police Officer shall impound and dispose of any farm animals found within the corporate boundaries of the City.

(B) A licensed veterinarian may possess, maintain, or harbor on real property located within the corporate boundaries of the City any farm animals if:

(1) the licensed veterinarian is providing medical treatment and care to the farm animal; and

(2) this type of activity is permitted on the real property by the City's Zoning Ordinance.

Section 8. Keeping of Numerous Animals.

(A) This section does not apply to small confined animals, or to any commercial breeding establishments.

(B) No person shall keep more than a total of four (4) dogs, cats or other animals over the age of six (6) months on any one parcel of real property within the corporate boundaries of the City. However, a person may keep a litter of pups, kittens or other young animals on a parcel of real property for a period of time not exceeding six (6) months starting from the birth of those animals.

(C) Despite the restriction in Subsection 8 (B), a person may keep more than four (4) dogs, cats or other animals over the age of six (6) months on a parcel of real property if the following requirements are met:

(1) The parcel of real estate is at least fourteen thousand five hundred twenty (14,520) square feet; and

(2) The person desiring to have more than four (4) animals has at least 1,000 additional contiguous square feet of land for each additional animal over four (4) animals.

This subsection shall not apply to any commercial breeding establishments or to individual breeders who hold a valid breeders permit issued by the City.

(D) A property owner currently in possession of a horse(s) as of the effective date of this ordinance shall be grandfathered. The property owner will be allowed to maintain or replace such horse(s), but in no case will be allowed to increase the total number of horse(s) on said property. However, the grandfather clause shall terminate upon the conveyance of said real estate.

Section 9. Animal Breeders.

(A) No person shall allow the breeding of or make five (5) or more dogs or cats pregnant within the corporate boundaries of the City.

(B) A breeder who allows the breeding of two (2) or more dogs or cats or makes two (2) or more dogs or cats pregnant in a 12 month period shall be required to obtain a major breeder's permit. To qualify for a major breeder's permit, a breeder must comply with the following:

- (1) Pay a one hundred dollar (\$100.00) permit fee; and
- (2) Provide proof of vaccination for rabies given by a licensed veterinarian; and
- (3) Adhere to the general standard of care requirement for animals stated in Section 12; and
- (4) Comply with the City's zoning ordinances and any State and Federal regulations.

A major breeder's permit is only valid for the dogs and/or cats kept on the same premises and owned by the same person.

(C) A breeder who allows the breeding of one (1) dog or cat or makes one (1) dog or cat pregnant shall be required to obtain a minor breeder's permit.

To qualify for a minor breeder's permit, a breeder must comply with the following:

- (1) Pay a fifty dollar (\$50.00) permit fee; and
- (2) Adhere to the general standard of care requirements for animals stated in Section 12; and
- (3) Comply with all the City's zoning ordinances and any State and Federal regulations.

A minor breeder's permit is only valid for the dog and/or cat kept on the same premises and owned by the same person for 12 months starting from the time the litter is born.

(4) Any person breeding two cats or dogs kept on the same premises and owned by the same person for 12 months starting from the time the litter is born, without a major breeder permit, will be fined Five Hundred Dollars (\$500.00) and any person breeding one cat or dog without a minor breeder permit will be fined Two Hundred Fifty Dollars (\$250.00).

(D) Any breeder's permit provided for herein may be revoked after notice to the breeder, upon a finding that the breeder has failed to comply with any

requirements of this Ordinance. The breeder may appeal to the Board within ten (10) business days of the effective date of the revocation.

(E) This Section shall not apply to commercial dog breeders regulated pursuant to Indiana Code 15-21 and those chapters that follows therein.

Section 10. Animals as Novelties or Use as Prizes and/or Brought to Large Public Events are Prohibited.

(A) No person shall display, sell, offer for sale, barter, or give away any animal, live reptile, fish or bird as a novelty prize or as an advertising device.

(B) No person shall dye or otherwise artificially color or sell, offer for sale, display, use as barter or give away any live rabbit, chick, gosling, duckling, turkey or other fowl.

(C) No person shall bring to, permit, take, possess or allow any animal to be at a large public event which is held on public property in the City of Elkhart. This prohibition shall apply to all animals, whether domesticated or otherwise, and whether or not leashed, caged or otherwise controlled.

(D) This prohibition shall not apply to the following:

(1) Disabled person(s) who have need of a specially trained service animal to safely and effectively carry out their activities;

(2) Displays conducted by animal welfare organizations as part of the large event;

(3) City, County, State or Federal law enforcement officers while acting their official capacities;

(4) Parades in the public right-of-way and any other events which have been specifically reviewed and approved by the Board of Public Safety; and

(5) Animals which may perform as part of a carnival, circus or parade which are regulated and approved by the Board of Public Safety.

Section 11. Trapping Animals.

(A) No person shall trap any animal within the corporate boundaries of the City, unless the person first obtains an animal trapping permit from the City. A person is eligible to receive an animal trapping permit only after paying an annual permit fee of twenty-five dollars (\$25.00). A person who has obtained an animal trapping permit must use humane traps and inspect those traps twice within a twenty-four (24) hour period, the second inspection occurring no later than twelve (12) hours after the first inspection.

(B) Despite the requirements in Subsection 11(A), a person may trap animals within the corporate boundaries of the City under the following circumstances:

(1) The person is employed or hired by a public or private agency and that agency holds a valid permit and that individual is acting within the scope of that agency's employment; or

(2) The person is trapping one or more nuisance animals running at large on that person's real property, with the intention of relocating the nuisance animal to a more appropriate location and with no intention of destroying or injuring such animal in the trapping process; or



- (3) The person is trapping and destroying mice, rats or moles.

Section 12. Caring for Animals.

Every owner and/or agent within the City shall see that each of his or her animal or animals:

(A) 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, except for the normal husbandry practice of confined feeding;

(B) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal at all times;

(C) Has a proper and adequate shelter provided that will protect the animal from all elements of the weather and will allow that animal to stand, sit, and lie down without restriction, and it is kept in a sanitary manner.

(D) If ill, diseased or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of disease to other animals or human beings.

(E) Is not beaten, cruelly ill-treated, overloaded, overworked, tormented or otherwise abused;

(F) Is not subjected to any dogfight, cockfight, bullfight or other combat between animals or between animals and humans;

(G) Is not physically altered in any manner by anyone other than a veterinarian or by accepted veterinary procedures and/or accepted animal

husbandry procedures with the exception of tattooing for identification purposes and grooming;

(H) Is not abandoned, neglected or tortured;

(I) In the case of a dog, cat or ferret over the age of twelve (12) weeks, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by the Indiana Board of Animal Health;

(J) Is properly restrained, which means no animal shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that are tied, hitched or fastened to restrain them must wear a properly fitted collar or harness made of leather or nylon, not a choke chain. This is not to prohibit the proper use of choker collars in the training of animals. The tying device shall be attached to the animal's harness and shall be at least twelve (12) feet long;

(K) In mating season, shall be kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species for unplanned breeding;

(L) Is not used in an unnatural way including but not limited to bestiality, pushing a chicken out of a mail box or a greased pig contest;

(M) Is not left unattended for long periods of time where water and food are not replenished and animal conditions are not monitored;

(N) Any puppy or kitten that is under the age of eight (8) weeks shall not be offered for sale, traded or given for free except a puppy or kitten that may be relinquished to the designated animal control facility;

(O) No person or group of persons or any for-profit or not-for-profit organization, whether for pay or other compensation or promotional purposes, shall conduct or allow any event involving contests between animals or persons using animals in any form except those events reviewed and approved for the safety, well-being and comfort of the animals involved by the designee of the City of Elkhart.

(P) Animals in Motor Vehicles. No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle; nor shall any person transport any animal in an unenclosed truck bed or open section of any vehicle unless the animal is enclosed in a cage which is securely fastened to the vehicle. A person who operates a motor vehicle containing animals must ensure that any animal in that vehicle does not interfere with the safe operation of said vehicle. A law enforcement officer may act to remedy any such hazard by any means, including gaining entry to impound the endangered animal.

Section 13. Sanitation.

(A) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street,

sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
- (2) Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.

(B) No person owning, harboring or keeping an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

(C) No person owning, harboring, keeping or in charge of any animal shall cause unsanitary dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

(D) The owner of any dead animal shall remove and properly dispose of the animal within twenty-four (24) hours after the animal's death. If a property owner discovers a dead animal upon its property and the animal is not the property

of the owner, said property owner must contact the animal control officer to aid in its removal.

Section 14. Cruelty to Animals.

(A) It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, permit a dog to engage in dog fighting, or any other animal fighting contest, nor allow an animal to fight a person as a sporting event. It shall be unlawful for any person to intentionally run down with a vehicle any animal, or otherwise to engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals.

(B) No person, except a licensed veterinarian for humanitarian purposes, shall administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

Section 15. Restraint and Confinement – Generally.

(A) (1) It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or to permit such animal to run at large upon the streets and public ways of the City.

(2) Any dog, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the

consent of the owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular dog.

(3) Every female dog or cat in heat shall be confined in a building or other enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(4) When an animal is determined to have bitten a person, the animal shall be confined in quarantine in an approved shelter for a period of not less than ten (10) days pursuant to rules adopted by the Indiana Board of Animal Health. The animal owner shall be responsible for any and all fees provided by the animal shelter or veterinary hospital for the quarantine of said animal, and any other medical care requirements for that animal.

(5) If the owner of an animal which has bitten a person has proof of current rabies inoculations and has a current City license, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer, and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation. When a concern or question of public safety is raised, the animal shall be removed for quarantine. The animal owner shall be responsible for any and all fees of quarantine and any other medical care requirements for that animal.

(6) Invisible Fence used as a confinement device is permitted and must be set back three (3) feet from the property line, and the property owner must

post upon the property a clearly visible sign informing the public of an invisible fence. Invisible Fences cannot be used as a confinement device for an animal that has been deemed vicious or dangerous.

(B) Fastening Animal with Rope or Chain; Choker Collar. Every owner or harbinger of an animal kept within the municipal boundaries of the City shall see that:

(1) The animal shall not be tethered by use of a choke collar; or

(2) Any collar too small for the size and age of the animal, nor by any rope, chain or cord directly attached to the animal's neck; or

(3) A leash or tether less than twelve (12) feet in length, with swivels on both ends and the leash or tether is constructed with sufficient strength to prevent the animal from moving about freely.

(4) Restrained animal must wear a properly fitted collar or harness made of leather or nylon; the tying device must be attached to the animal's collar or harness. If a chain is used to attach to the collar, the chain must be able to sufficiently restrain the weight of the animal.

(5) All animals tethered on the property within the City shall not be able to come within three (3) feet of its abutting property line or within 3 feet of another tethered animal. Tethered animals may not be tethered to restrict access by service personnel such as postal workers, meter readers, law enforcement, emergency personnel or other individuals who require access to the residence.

Tethered animals must be at tethered to maintain at least eight (8) feet from a sidewalk leading up to the residence.

(6) It shall be unlawful to tether any animal between the hours of 11:00 P.M. and 6:00 A.M. It is a violation of this Ordinance to tether any animal for more than three (3) hours during any twenty four (24) hour period.

Furthermore, no un-sterilized animal may be tethered unless it is monitored by a competent adult.

Section 16. Restraint of Guard Dogs.

(A) Every owner of a guard or attack dog shall keep such dog confined in a building, compartment, or other enclosure. Any such enclosure shall be completely surrounded by a fence at least six (6) feet in height and shall be topped with an anti-climbing device constructed of angle metal braces with at least three (3) strands of equally separated barbed wire stretched between them.

(B) All anti-climbing devices shall extend inward at an angle of not less than forty-five (45) degrees nor more than ninety (90) degrees when measured from the perpendicular.

(C) The areas of confinement shall all have gates and entrances securely closed and locked, properly posted warning signs warning the public of the presence of a guard dog, and all fences engineered and properly maintained to prevent breach and/or escape by tunneling.

(D) The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.



(E) The owner or keeper of a guard dog shall notify the Elkhart City Police Department immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(F) The owner or keeper of a guard dog shall also comply with Section 17 (I).

Section 17. Licensing and Restraint of Vicious or Dangerous Animals.

(A) No person shall own, possess, maintain, or harbor on any property within the corporate boundaries of the City a vicious or dangerous animal unless the owner of the vicious or dangerous animal complies with the requirements of this Section of the Ordinance.

(B) The owner of an animal determined to be a vicious or dangerous animal shall have two (2) business days to submit an application for a vicious or dangerous animal license to the City. A person who disagrees with his or her animal being determined to be vicious or a dangerous animal must file an appeal with the Board within two (2) business days of receiving notification of that designation.

(C) The owner of a vicious or dangerous animal shall apply to the City Controller's Office for licensing of said animal. The application shall be on a form provided by the Controller's Office and shall be accompanied by all of the following:

(1) Verification of the owner's name and current address by way of providing a photostatic copy of his or her driver's license;

(2) Proof that the applicant owns said animal, and is eighteen (18) years of age or older;

(3) One (1) copy of the animal's current rabies vaccination certificate issued by an accredited veterinarian;

(4) Proof that the owner has insurance coverage of not less than Five Hundred Thousand Dollars (\$500,000.00) for any injury, damage or loss caused by said animal;

(5) Four (4) photographs of said animal taken not more than one (1) month before the date of the application. One (1) photograph shall be a front view of the animal, two (2) photographs shall be a right and a left side view of said animal, and one (1) photograph shall be a rear view of said animal;

(6) If the animal was previously licensed under this Ordinance, the name and address of any previous owner and the number of the most recent license assigned to said animal; and

(7) Payment of the licensing fee of One Hundred Dollars (\$100.00).

(D) If the owner provides all the information required by Subsection (C), the animal shall be licensed. However, the Board shall have the right to suspend or revoke the owner's license at any time if the owner:

(1) Fails to inform the City Controller's Office of any notice or cancellation of the required liability insurance within forty-eight (48) hours of such notice or cancellation.

(2) Fails to inform the City Controller's Office of any change of address, or change of ownership of said animal; or

(3) Fails to comply with any other requirements of this Ordinance for licensing of said animal.

(E) Upon licensing of an animal not previously licensed under this Ordinance, the City Controller's Office shall assign a specific license number of ownership to said animal, without duplication, which number shall remain the same for the life of the animal.

(1) The City Controller's Office shall issue to the owner or agent of said animal a dangerous dog license in written form which includes the number of the dangerous dog license number, dangerous dog license date of issuance and date of expiration.

(2) A durable tag stamped with the license or permit number and year of issuance shall be given along with a sign stating "Beware dangerous Animal" which must be prominently and conspicuously displayed by the owner of said animal where said animal is harbored and clearly visible from the street or alley immediately adjacent thereto.

(F) The City Controller's office shall keep a permanent record of the name and address of the owner or agent of each animal licensed under this

Ordinance and the license number issued to the owner, the animal's name, breed, sex, color, and four (4) photographs of each animal so licensed. The City Controller's office shall furnish to any law enforcement agency a true copy of these records upon request.

(G) The City Controller's Office shall keep the licensing records for animals licensed under this section separate from the records for all other breeds of animals.

(H) All licenses issued under this Ordinance shall expire December 31 of each year. All animal owners meeting the requirements of this section shall apply for a license between January 1 and December 31 of each year.

(I) Every vicious or dangerous animal shall be confined by its owner or individual in possession of said animal within a building or secure enclosure, and, whenever off the premises of its owner, shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not more than three (3) feet in length, or caged. Any individual harboring a vicious or dangerous animal is charged with an affirmative duty to confine the animal in such a way that children do not have access to such animal. If a kennel will be used to confine said animal the kennel must comply with the following:

(1) If chain-link fencing is used it must be made of at least eleven (11) gauge chain-link wire;

(2) Must be of such material that the animal cannot chew, dig or otherwise free itself from;

- (3) The top of the kennel must be chain-link, or made of an engineered roofing material from which the animal cannot escape;
- (4) The floor must be cement, or brick and engineered to prevent escape;
- (5) The sides of the enclosure must be buried at least two (2') feet into the ground, or securely fastened to the floor;
- (6) The enclosure must be adequately constructed to protect the animal from the elements and must be kept locked at all times to prevent both escape and unauthorized entry.

A habitable dwelling, such as a house or a garage, must be capable of being locked and secured. Such dwellings may be required to be modified on a case-by-case basis to ensure that the vicious or dangerous animal cannot exit it of its own volition, such as when a door or window screen is the only obstacle that prevents the animal from exiting. An invisible fence is not a permitted as a means of confining a vicious or dangerous animal.

(J) Within thirty (30) days of an animal being deemed a vicious or dangerous animal and at the owner's expense, the owner of the animal shall:

- (1) Have the animal permanently identified by a microchip; and
- (2) Have the animal spayed or neutered.

(K) A person shall be ineligible to obtain a vicious or dangerous animal license if that person is determined to be a habitual animal offender. The term "habitual animal offender" shall mean a person who within any three (3) year

period has been convicted of or admitted to three (3) or more violations of this Ordinance. The date on which a person is convicted of or admits to the first violation of this Ordinance shall be the start date for the three (3) year period.

(L) No person shall own, harbor, possess or have on his or her premises more than one vicious or dangerous animal.

(M) No person under the age of eighteen (18) years old shall walk a vicious or dangerous dog.

(N) The owner or keeper of a vicious or dangerous dog shall notify the Elkhart City Police Department immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

Section 18. Property Owners May Impound. Any person finding an animal at large upon his property may remove the same to any animal shelter that will take possession of the animal. If no such shelter is available, the property owner may hold the animal in his own possession, and within twenty four (24) hours or the next business day, notify the City Animal Control Officer or the Humane Shelter. The property owner shall provide a description of the animal and the name of the owner if known. The animal control officer or the humane shelter shall take possession of the animal.

Section 19. Disposition of Large Animals. Any animal control officer, humane shelter officer or other designated person on call who removes a large animal such as a horse, cow, mule or any other animal not acceptable by any

animal hospital or shelter shall be authorized to call a trucking firm or company which shall convey the animal to a farm or other appropriate facility that has an agreement with the City to accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter and the expense for said removal shall be the responsibility of the animal's owner.

Section 20. Licensing of Dogs and Cats.

(A) License required. No person shall own, keep, or harbor any dog or cat over the age of six (6) months within the City unless such dog or cat is licensed as provided in this Ordinance.

(B) Application. Application for such license shall be made by the owner on a form to be provided by the City Controller's Office within ten (10) days after acquiring any dog or cat over six (6) months of age or within ten (10) days after a dog or cat become six (6) months of age; provided that any owner moving to the City for the purpose of establishing residence or becoming a resident as a result of annexation, and otherwise required to obtain a license, shall have until ten (10) days after moving or annexation to obtain such a license.

(C) Proof of rabies vaccination required. All owners applying for a license must show to the satisfaction of the licensing authority that the animal for which the license is being obtained has been inoculated against rabies.

(D) Proof of sterilization. Any owner claiming that his dog or cat has been spayed or neutered must show to the satisfaction of the licensing authority that such operation has been performed.

(E) Payment of license fee. A license fee shall be paid at the time of making application. However, the fees for licensing a dog or cat shall be waived if an owner of a dog or cat applies for a license for his dog or cat within sixty (60) days of the effective date of this ordinance. The animal license shall expire on December 31 of each year. The license fee for both dogs and cats shall be \$12.00 dollars for each altered dog or cat and \$18.00 dollars for each unaltered dog or cat when combined with a one year current rabies vaccination given by a licensed veterinarian. The owner shall receive a three dollar (\$3.00) discount for micro-chipped animals. At the owner's option a three (3) year license is available. The fee for the three year license is thirty dollars (\$30.00) for a neutered animal, and forty five dollars (\$45.00) for a non-neutered animal when combined with a three year current rabies vaccination given by a licensed veterinarian. The fees for the three year license will be reduced by nine dollars (\$9.00) if said animal is micro-chipped. All licenses may be obtained at the City Controller's Office, the Elkhart County Humane Shelter or a local veterinary office, and these agencies may charge a reasonable fee for each license that they sell, not to exceed \$2.00 per license. The remainder of the moneys collected must be sent within thirty days after the sale to the City Controller's office with the name, address, phone number of the owner of the animal licensed and the age, name, sex, neutered status,



microchip number and all pertinent identification of the animal licensed along with the fee that was charged.

(F) Exemption from license fee. License fees shall not be required for service dogs, government police and fire department dogs or dogs belonging to a nonresident of the city and kept within the boundaries of the City for not longer than thirty (30) days or any dog or cat being housed as part of a Humane Shelter approved temporary rescue or foster home holding a valid 501(c)(3); provided that all dogs of nonresidents shall at the time of entry into the City be properly vaccinated against rabies, and while kept within the City, meet all other requirements of this Ordinance. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the licensing authority that the dog or cat in question is entitled to such exemption.

(G) Penalties. Any owner of a dog or cat over the age of six (6) months who fails to obtain a license within the time period specified in this Ordinance shall be subject to a late fee equal to the amount of the license sought, and a fine of not less than \$100 nor more than \$500 dollars.

Any established rescue agency which authorizes foster homes as defined as in Section 5, paragraph (T), hereof is required to meet established standards of animal care as outlined in this local ordinance as well as the state of Indiana and must obtain a yearly Foster Home Permit from the Humane Society of Elkhart County or an agency designated by the city of Elkhart. Each agency is required to provide a copy of this permit to all of their foster homes, an up to date listing of

approved homes to the Humane Society or the city's designated agency and to ensure homes are maintaining required standards of care. Furthermore, a foster home may not foster more than six (6) animals in foster care including their own animals at any one time. All persons with foster animals in the City must work with an established agency that has been approved and received the necessary permit and must adhere to this ordinance and all of its chapters and the City's zoning laws.

(H) Pet Shop Permit.

1. No person, partnership or corporation shall operate a pet shop in the city without first obtaining from the City a Pet Shop Permit. Any person operating a Pet Shop shall furnish to each customer purchasing a dog or cat a written statement at the time of sale containing the following information: Date of sale, name address and phone number of the purchaser and permit holder, permit number of permit holder, species, breed, description, age and sex of the dog or cat sold; vaccination and parasite medication administered to said animal and dates of administration and veterinary or person who administered the medication and vaccination; and also a guarantee of good health for a period of not less than one week with a recommendation that the new owner have the animal examined by a licensed veterinarian within 48 hours.

2. The pet shop shall retain a copy of said written statement for a period of 12 months from the date of sale and provide a duplicate copy to the licensing authority.

3. All pet shops shall take care to house animals in a sanitary manner and adhere to Section 12 in this ordinance.

4. In addition to the permit requirements of this ordinance, the permit holder shall obtain any and all other permits as required by state and federal governmental entities. The permit will be in effect from January 1 to December 31 of each calendar year.

Section 21. License Tags; Identification.

(A) Upon payment and acceptance of the license fee, the licensing authority shall issue a durable license tag stamped with the year of the issuance and an identification number for the animal for which the license has been obtained. Any license issued for the keeping of a dog or cat shall take effect on the date of issuance and shall be valid until December 31. Every dog or cat for which the owner is required to obtain a license must wear a valid license tag at all times when the animal is off the premises of its owner, or the owner must be in possession of the appropriate licensing tag or certificate. Proof of license must be provided to an animal control officer when requested.

(B) No person may use a license for any animal other than the animal for which the license was issued. It shall also be unlawful for any person to remove from the neck of any dog or cat the license tag issued pursuant to this section or alter such tag in any manner. Proof of license must be provided to an animal control officer when requested.

Section 22. Impoundment.

(A) In addition to any other remedies provided in this Ordinance, an animal control officer, police officer of humane shelter officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

- (1) Any dog or cat without a valid license;
- (2) Any animal at large;
- (3) Any animal constituting a public nuisance or considered a danger to the public;
- (4) Any animal that is in violation of any quarantine or confinement order or has been bitten any animal or human;
- (5) Any unattended animal that is ill, injured or otherwise in need of care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies;
- (8) Any animal that is deemed to be potentially dangerous, or vicious where an animal control officer, police officer, humane shelter officer, the Board of Public Safety determines that there is a threat to public health and safety;
- (9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
- (10) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, medically incapacitated, has been arrested

or evicted from his regular place of residence.

(11) An animal control officer or police officer may also, or in lieu of impoundment, issue to the owner a notice of violation. Such notice shall impose upon the owner a penalty of not less than \$100 or more than \$500 dollars that shall be paid to the City.

(12) If an animal has bitten a person, the animal control officer or police officer may also, or in lieu of impoundment may, leave the animal in the care of its owner, if the owner has proof of the animal's current rabies inoculation and the owner has a current animal license issued by the City of Elkhart.

Section 23. Notice to Owner and Redemption.

(A) Upon impoundment of an animal, the animal control officer, police officer or humane shelter officer shall immediately attempt to notify the owner. Any notice to the owner shall also include the location of the shelter or hospital where the animal is confined, hours during which the animal can be reclaimed, and fees to be charged to the owner. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the adoption of the animal or the animal may be euthanized in a manner prescribed by the local humane society.

(B) Any animal not reclaimed by its owner within ten (10) days shall become the property of the impounding agency and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the local humane society.

A vicious or dangerous animal shall be held for three (3) days before it may be euthanized if the owner is unknown. However, an animal which demonstrates behavior that endangers the safety and well being of other animals or humans may be euthanized immediately.

Section 24. Administrative Sanctions and Remedies. As part of any order issued pursuant to this Ordinance, the Board shall have the authority to order the following administrative sanctions and remedies for known ordinance violators:

- (A) Obedience training for the animal(s) in question;
- (B) Muzzling of an animal while off the property of the owner;
- (C) Confinement of an animal indoors;
- (D) Confinement of an animal in a secure enclosure;
- (E) Reduction of the number of animals kept at one location;
- (F) Removal of an animal from the custody of the animal's owner or custodian in cases of neglect or cruelty;
- (G) The sterilization of an animal;
- (H) A ban on maintaining other animals in the City; and
- (I) Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect the health and safety of the public.

Section 25. Appeals. Any person aggrieved by any decision of an animal control officer, police officer, humane shelter officer or other enforcement officer, except the issuance of a municipal citation, may appeal the same to the Board by filing an appeal with the Board within five (5) working days of receiving notice of

the decision. Any person aggrieved by any decision or order of the Board may appeal the same to any Circuit or Superior Court in Elkhart County, Indiana.

Section 26. Enforcement. Animal control officers or other designees of the Mayor shall be the enforcement officials for this Ordinance. These officials, along with police officers, shall have the authority to act on behalf of the City and the Board in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions required to enforce the provisions of this Ordinance. It shall be a violation of this Ordinance to interfere with any animal control officer or other enforcement official in the performance of his duties.

Section 27. Issuance of Permits. Applicants for permits shall be made to the City Controller's Office on the forms providing for the particular permit and shall include the name, address and telephone number of the applicant, and type of permit applied for. Permits are to be issued for a term of one (1) year except where State statutes, laws, regulations require otherwise. All fees shall be paid at the time of application and are not refundable.

Section 28. Violation and Penalties.

(A) It shall be a violation of the Ordinance to:

- (1) Fail to comply with any provision of this Ordinance;
- (2) Fail to comply with any lawful order of the Board, an animal

control officer, humane shelter officer, or police officer unless such order is lawfully stayed or reversed; or

(3) Fail to pay any fines, civil penalties or costs imposed by the Board or animal control officer within fifteen (15) days of the imposition of such fines and costs, unless payment thereof is lawfully stayed.

(B) Any person who violates Section 9 (B) shall be fined five hundred dollars (\$500.00); and

(1) Any person who violates Section 9 (C) shall be fined two hundred fifty dollars (\$250.00).

(C) Any person who violates any provision of this Ordinance except Section 9 (B) or (C) shall be punished by a fine of not less than \$100 dollars nor more than \$500 dollars. If a violation continues, each day's violation shall be deemed a separate offense. In addition to the above, reasonable restitution to any party injured by the owner's or agent's violation may be ordered.

Habitual Animal Offender.

(D) It shall be unlawful to be a habitual animal offender. For the purposes of this section, a Habitual Animal Offender shall mean any animal owner or harbinger, who within any three (3) year period is convicted with three or more violations of animal care regulations of this ordinance. The controlling date is the date of each animal ordinance violation, not the date of the plea entered or the conviction resulting there from.

(E) If found to be an habitual animal offender, the court may order no animal ownership for a minimum period of three (3) years, not to exceed ten (10) years.



Section 29. Non-Reverting Operating Fund.

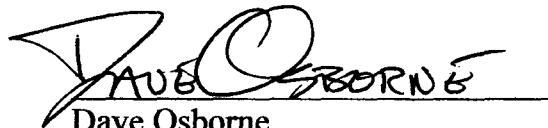
This Ordinance hereby establishes a special non-reverting operating fund into which shall be deposited each listing fee collected and all fines and penalties assessed under provisions of this Ordinance. Appropriations from this fund may be used for animal control purposes, or any other animal initiatives designated by the Mayor.

Section 30. Conflicting Ordinances. This Ordinance repeals Ordinances No. 170, 177, 260, 274, 826, 1689, 2999, 3188, 3491, 3639, and 3729. Any other Ordinances of the City in conflict with this Ordinance are repealed to the extent of such conflict.

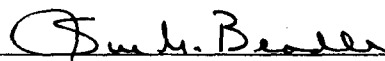
Section 31. Severability. The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance.

Section 32. Effective Date. This Ordinance shall be in effect from and after its passage, approval and publication, according to law.

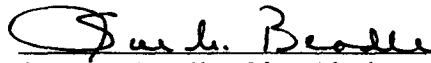
ORDAINED this 19<sup>th</sup> day of April, 2010.

  
Dave Osborne  
President of the Common Council

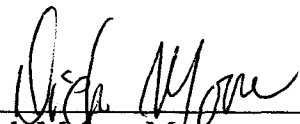
ATTEST:

  
\_\_\_\_\_  
Sue M. Beadle, City Clerk

PRESENTED to the Mayor by me this 26<sup>th</sup> day of April, 2010

  
\_\_\_\_\_  
Sue M. Beadle, City Clerk

APPROVED by me this 27<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
Dick Moore, Mayor

ATTEST:

  
\_\_\_\_\_  
Sue M. Beadle, City Clerk