

## ARTICLE III. - ANIMAL CONTROL DEPARTMENT

## Sec. 6-37. - Independent contractor.

The city shall contract with an independent contractor to operate as the animal control officer and this person shall have authority to enforce the provisions of articles I, II and III. The requirements for the animal control officer, an independent contractor with the city, shall be as follows:

- (1) Must submit to criminal background investigation.
- (2) Must submit to financial background investigation.
- (3) Carry a minimum of general liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per person and two million dollars (\$2,000,000.00) in the aggregate.
- (4) Carry a minimum of automobile liability insurance in the amount of five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) in the aggregate as well as five hundred thousand dollars (\$500,000.00) uninsured motorist coverage.
- (5) City will provide cell phone for independent contractor or pay for same.
- (6) Be available by cell phone twenty-four (24) hours a day/seven (7) days a week.
- (7) Furnish suitable tranquilizer gun.
- (8) Furnish both large and small humane box wire traps.
- (9) Furnish suitable and dependable vehicle to be used in animal control.
- (10) Furnish a kennel consisting of the following, at a minimum, to wit: a secure building containing ten (10) 4' x 10' runs, well ventilated and with a well-drained concrete floor. This building may not be placed in a heavily populated area. All animal feces is to be disposed of properly and not allowed to go into a water source. Building to be a minimum of sixteen (16) feet in width and twenty (20) feet in length with no more than six (6) feet of the ten-foot length of each kennel run exposed to the elements. Sufficient clean water shall be available for hosing down the kennels and keeping water available for animals kept.
- (11) Furnish all veterinary supplies (as allowed by law) and medicines necessary for the humane treatment of the animals within his care as well as chemical euthanasia supplies or allow a licensed veterinarian to perform euthanasia where applicable.
- (12) Furnish appropriate amounts of wholesome food for all animals taken into custody.
- (13) Keep complete and accurate records of all animals taken into custody, boarded, released to owners, adopted or euthanized. Keep complete and accurate records of all fees charged (to be set by the city) and remit same to city clerk to be deposited into city general fund.
- (14) Suitable animal taser device (at discretion of animal control officer).
- (15) A firearm suitable for dealing with vicious, seriously diseased or seriously injured animals. However, same is not to be worn or carried on routine calls, but is to be available in vehicle when needed.
- (16) Abide by all regulations of the City of New Albany Code regarding animals (chapter 6).
- (17) Submit to firearms training by the City of New Albany Police Department to be used for vicious, seriously diseased or seriously injured animals or those which cannot be caught by other means.
- (18) Enter into a contract with the city for these services.

(Ord. of 8-25-2009)

Sec. 6-38. - Notification and fees.

- (a) Animals found loose or trespassing. The animal control officer or his lawful designee shall take up any animal found loose or trespassing and shall impound such animal and make all reasonable attempts to notify the owner that the animal control officer has such animal in charge, and the owner may redeem same within the above period of time and by paying the fees as below set forth. Any animal that is impounded may be kept by the animal control officer for a period of at least seven (7) consecutive days unless claimed sooner by the owner.
- (b) Notification. In the event the owner cannot be found within seven (7) days or the animal is not picked up within seven (7) days from its impoundment, the animal control officer may consider the same to have been abandoned.
- (c) Records. The animal control officer shall keep a complete and accurate record of all animals taken up, giving names of owners, if known, kind of animal, whether vaccinated, date of taking up and disposition of the matter, and periodically render a report to the mayor and board of aldermen.
- (d) Impounding fee, etc. The impounding fee, medical and feed charges shall be paid to the city by the owner of the animal or by anyone adopting said animal. The rightful owner of any animal held by the animal control officer may obtain said animal upon payment to the city by paying the city clerk or the animal control officer an impounding fee of twenty-five dollars (\$25.00), a maintenance fee of seven dollars (\$7.00) per day, payment for all medical services provided to such animal, provided proof of a current vaccination certificate as set forth herein is presented at the time such animal is claimed by its owner and, if a dog, the same has an identification tag on its collar identifying the owner of the dog. The seven-day waiting period is waived for a vicious or feral dog or cat, or for any animal suffering from an infectious disease or so terribly injured that it is unlikely to live. Pursuant to MCA 1972 § 97-41-3, an injured or neglected animal may be euthanized without any waiting period. The goal is to mercifully end the life of such animal.
- (e) If an unvaccinated dog or cat is claimed during the seven-day period, such dog or cat shall not be released until vaccinated and tagged as herein provided.
- (f) Should any impounded animal not be claimed within the seven-day period, any and all such animals shall be disposed of by adoption or destroyed.
- (g) For all dogs and cats having vaccination tags and/or identifying tags, reasonable efforts shall be made to contact the owners.
- (h) Funds obtained from fees generated under subsection (d), above, shall be deposited into the general fund of the city.

(Ord. of 8-25-2009)

Sec. 6-39. - Animal control officer enforcement responsibility.

- (a) The civil and criminal provisions of this article shall be enforced by those persons or agencies designated by the board of aldermen including the animal control officer or his lawful designee. It shall be a violation of this article to interfere with an animal control officer or his lawful designee in the performance of their duties herein. Any designated animal control officer may utilize any equipment reasonable and necessary to enforce the provisions of this article including, but not limited to, humane wire box traps, chemical capture weapons, and other animal control equipment.
- (b) As authorized by the city, any law enforcement officer and/or animal control officer, may enter private premises to enforce local animal control chapters or state animal control statutes.
- (c) Any official or representative of the city, lawfully designated to enforce the provisions of this article, shall have the power and authority to issue summons and citations returnable to the municipal court or

to any other proper authority for violations of this article. Such summons and citations shall have the same full force and effect as if issued by the police department of the city for other law enforcement purposes. The section on penalties also applies for purposes of enforcement responsibility.

(Ord. of 8-25-2009)

Sec. 6-40. - Enforcement.

Animal control officer or, in extraordinary circumstances, police officer to enforce article; interfering with prohibited.

- (a) The civil and criminal provisions of this title shall be enforced by the animal control officer and, in extraordinary circumstances, the city police department.
- (b) The animal control officer having probable cause that a person has violated a section of this title may, in lieu of obtaining a misdemeanor warrant for arrest of such suspect, issue to the person a written citation requiring the person to appear at a date and time in the municipal court to answer the charge or charges specified in the citation.
- (c) It shall be a violation of this title to interfere with an animal control officer in the performance of his duties.

(Ord. of 8-25-2009)

Sec. 6-41. - Elimination of animals, when authorized.

- (a) Vicious animals or feral or vicious dogs and cats. When an animal is determined by the animal control officer to be a vicious animal or a feral or vicious dog or cat, that animal may be destroyed by the animal control officer or his lawful designee, provided two (2) of the following requirements are met:
  - (1) The animal is running at large or not properly confined as described herein.
  - (2) There is no ownership identification tag on the animals collar (dogs only).
  - (3) There is no vaccination tag around the animal's neck.
  - (4) Attempts to peacefully capture the animal have been made and proven unsuccessful.
- (b) Any dog that aggressively attacks and causes severe injury or death of any humans shall be immediately confiscated by animal control and thereafter destroyed in an expeditious and humane manner. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- (c) Seriously injured or diseased animals, etc. It shall be the duty of the animal control officer or his lawful designee either to humanely euthanize with an injection or to discharge a firearm in order to mercifully end the life of an animal suffering from a serious injury or disease or as the sole effective means of controlling a public nuisance or health hazard, including, but not limited to, rabbits, squirrels, snakes, feral or vicious dogs or cats and vicious animals. Reasonable efforts shall be made to first locate the owner of any such injured or diseased animal if the animal carries proper identification.
- (d) When any dangerous animal, in the judgment of the animal control officer, or his lawful designee, poses a serious and immediate threat of serious harm or injury to human life, then it shall be the lawful duty of such officer to eliminate such animal without requiring such officer or official to catch, restrain or impound such animal or give any notice whatsoever in the sole and exclusive judgment of said officer.
- (e) Neither the city, the animal control officer, his lawful designee or the police department shall be held liable for any acts in this regard or any phase of the enforcement of this article.

(Ord. of 8-25-2009)

Sec. 6-42. - Authority.

It shall be the duty of the animal control officer or his lawful designee to seize and impound, subject to the provisions of this article, all animals, whether domesticated or undomesticated, found in violation of the provisions of this chapter within this city, whether such animal shall be in the immediate presence of its owner or custodian or otherwise.

(Ord. of 8-25-2009)

Sec. 6-43. - Right of entry.

The animal control officer or his lawful designee is hereby authorized to enter upon any lot, tract or parcel of land for the purpose of seizing and impounding any animal found thereon in violation of this chapter.

(Ord. of 8-25-2009)

Sec. 6-44. - Right and costs to redeem, fines additional.

The owner of any animal which has been impounded under the provisions of this article shall have the right to redeem such animal upon the payment of any and all fees which may be due and payable for the impoundment of such animal; provided, however, that the payment of such impoundment fees shall not bar the imposition of any fine which may be imposed for the violation of this chapter.

(Ord. of 8-25-2009)

Sec. 6-45. - Time for redemption/adoption.

All impounded animals shall be redeemed within seven (7) days after the animal was impounded. Any such animal not redeemed within such time may be adopted or destroyed. Reasonable efforts will be made to secure adoption of impounded animals.

(Ord. of 8-25-2009)

Sec. 6-46. - Penalties, disposition of fines charged under this chapter.

- (a) Any person convicted of violating a provision of this chapter that does not include a specific penalty under state law shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be punished by imprisonment for a period not to exceed six (6) months, or a fine not to exceed five hundred dollars (\$500.00), or both, and all lawful costs, except that any person so convicted shall be fined a sum of not less than twenty-five dollars (\$25.00) for the first offense, not less than fifty dollars (\$50.00) for a second offense, and not less than one hundred dollars (\$100.00) for the third offense and all subsequent offenses. In addition, the court may require up to one hundred (100) hours of community service. However, if state law provides penalties for a particular offense that exceeds the penalties listed herein, the court may choose to apply the penalty allowed by state law. Also, see penalties for vicious, ferocious and dangerous animals in section 6-14.

(Ord. of 8-25-2009)