

INTRODUCED: 11/09/2009

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillor Scales

DIGEST: amends the Code to clarify the definition and violation of animal at large, to expand the definition of serious injury, to specifically provide for court-ordered forfeiture and/or destruction of an animal if serious injury to a person results from the animal chasing or approaching a person in an aggressive manner while at large, and to change the reference to serious bodily injury to serious injury in the section on owner responsibility for animal attacks

SOURCE:

Initiated by: Office of Corporation Counsel  
Drafted by: Teri Kendrick, Animal Care and Control Division

LEGAL REQUIREMENTS FOR ADOPTION:  
Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:  
Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_ Date: November 5, 2009

CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_\_, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to clarify the definition and violation of animal at large, to expand the definition of serious injury, to specifically provide for court-ordered forfeiture and/or destruction of an animal if serious injury to a person results from the animal chasing or approaching a person in an aggressive manner while at large and at a place other than its owner's property, and to change the reference to serious bodily injury to serious injury in the section on owner responsibility for animal attacks.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Article I of Chapter 531 of the "Revised Code of the Consolidated City and County," regarding animals, hereby is amended by deletion of the language that is stricken-through, and by addition of the language that is underscored, to read as follows:

**ART. I. GENERAL PROVISIONS**

**Sec. 531-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Animal* means any living, nonhuman vertebrate creature.

*Animal care and control division* means the animal care and control division of the department of public safety.

*At large* means not confined without means of escape of any portion of the animal's body in a pen, corral, yard, cage, house, vehicle or other secure enclosure, unless on a leash and under the control of a competent human being.

*Colony* means a group of one (1) or more free-roaming cats, whether unmanaged or managed.

*Colony caretaker* means a person who provides food, water and shelter for free-roaming cats in a managed colony.

*Crime prevention dog* means and includes a dog ~~which~~ that is trained and used by its owner or keeper primarily for the protection of persons or property, or both.

*Dangerous animal* means any animal that:

- (1) Would constitute a danger to human life or property if it were not kept in the manner required by this chapter;
- (2) Has caused serious injury to a person without having been provoked by that person;
- (3) At a place other than its owner's or keepers property has:
  - a. Chased or approached a person in a menacing fashion or apparent attitude of attack; or
  - b. Attacked another domestic animal; or
- (4) Because of its training or behavior, is capable of inflicting physical harm or death to humans.

*Dog* means and includes animals of the *Canis familiaris* species, and hybrids of a *Canis familiaris* and any other member of the *Canis* genus, including wolves. ~~Domestic animals means rabbits, cattle, horses, ponies, mules, donkeys, jackasses, llamas, swine, sheep, goats, dogs, cats and poultry.~~

*Domestic animals* means rabbits, cattle, horses, ponies, mules, donkeys, jackasses, llamas, swine, sheep, goats, dogs, cats and poultry.

*Exposed to rabies* means an animal has been exposed to rabies if it has been bitten by or been in contact with any animal known or reasonably suspected to have been infected with rabies.

*Free-roaming cat* means any homeless, stray, wild or untamed cat.

*Kennel* means a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both. For purposes of this chapter, kennel shall not include a facility in or adjoining a private residence where dogs or cats are kept for the hobby of the owner, lessee or other occupant of the property using the animals for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the property, and an occasional sale of pups or kittens by the owner, lessee or other occupant of the property shall not make such property a kennel for the purposes of this chapter.

*Law enforcement animal* means an animal that is owned or used by a law enforcement agency for the purpose of aiding in the detection of criminal activity, enforcement of laws, the apprehension of offenders and ensuring the public welfare.

*Managed colony* means a colony of free-roaming cats that is registered with the animal care and control division or its designee and is maintained by a colony caretaker using trap, neuter, return methodology.

*Monitored* means that the animal ~~or dog~~:

- (1) Is controlled by means of a leash or other device held by a competent person, subject to the provisions of sections 531-401 and 531-728, which animal ~~or dog~~ is sufficiently near the owner or handler as to be under his or her direct control and is obedient to that person's command;
- (2) Is on or within a vehicle being driven or parked; or
- (3) Is confined as required by this chapter.

*Nonbite exposure* means and includes scratches, abrasions, open wounds or mucous membranes contaminated with saliva or other potentially infectious material from a rabid animal.

*Own* means to keep, harbor or have custody, charge or control of an animal, and owner means and includes any person who owns an animal; however, veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of this Code, who temporarily keep animals owned by, or held for sale to, other persons shall not be deemed to own or be owners of such animals, but rather to be keepers of animals, and colony caretakers of managed colonies of free-roaming cats shall not be deemed to be owners or keepers of such animals.

*Person* means and includes any individual, corporation, partnership or other association or organization, but shall exclude the following for purposes of section 531-401:

- (1) Police officers, federal or state armed forces, park rangers, game wardens, conservation officers and other such governmental agencies, with respect to actions ~~which~~ that constitute a discharge of their official duties; and
- (2) An individual, partnership, corporation or other association, organization, or institution of higher education, which is registered as a research facility with the United States Secretary of Agriculture under 7 USC § 2131 et seq., commonly known as the "Animal Welfare Act," while engaged in the course of their performance as such.

*Provoke* means the infliction of bodily harm on the animal or another person, or conduct that constitutes a substantial step toward the infliction of bodily harm on the animal or another person.

*Public safety board* means the board of public safety of the department of public safety.

~~*Serious injury*, for purposes of this chapter means any injury which results in a broken bone, lacerations severe enough to require multiple sutures, or to render cosmetic surgery necessary, or appropriate or death that results in permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of a bodily member or organ.~~

*Quarantining authority* means the department of public safety, its contractors, agents, employees and designees, acting under directives and regulations of the Health and Hospital Corporation of Marion County or the state board of animal health.

*Shelter* means the animal care and control facility located at 2600 South Harding Street in the City of Indianapolis.

*Veterinarian* means a person licensed to practice veterinary medicine in the state.

*Wild animal* means and includes:

- (1) A Class III wild animal for which a state permit is required under 310 IAC 3.1-11-8 and/or IC 14-22-26; and
- (2) A venomous snake, poisonous amphibian, or other large reptile.

#### **Sec. 531-102. Animals at large prohibited; penalties.**

(a) An owner or keeper of an animal commits a violation of the code if that animal is at large in the city.

(b) Except as provided in subsection (c) of this section, section 531-501 or section 531-727, the first violation in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the code. All subsequent violations in a twelve-month period are subject to the enforcement procedures provided in section 103-3 of the Code and a fine of not less than one hundred dollars (\$100.00) per violation.

(c) If, while the animal is at large in violation of this section at a location other than its owner's or keeper's property or in the public right-of-way, it:

- (1) Attacks another animal; or
- (2) Chases or approaches a person in a menacing fashion or apparent attitude of attack;

then the violation shall be subject to the enforcement procedures and penalties provided in section 103-3 of the Code, and the fine imposed shall not be less than two hundred and fifty dollars (\$250.00), or five hundred dollars (\$500.00) if another animal or person is injured as a result of the animal's actions. If the violation results in serious injury to any person, the court upon request shall order the animal forfeited and/or destroyed.

**Sec. 531-109. Owner responsibility for animal attacks.**

(a) An owner or keeper of an animal commits a violation of the code if that animal attacks and injures a person who did not provoke the animal prior to the attack.

(b) It shall be a defense to prosecution under this section if:

- (1) The attack occurred in an enclosure in which the animal was confined without means of escape, there was posted at the main entrance of the enclosure a notice to beware of the animal, and the person attacked entered the enclosure without invitation; or
- (2) The person was attacked during the commission or attempted commission of a criminal act on the property of the owner or keeper of the animal.

(c) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for any such violation shall not be less than five hundred dollars (\$500.00). If the violation results in the animal causing serious ~~bodily~~ injury to any person, the court upon request shall order the animal forfeited and/or destroyed.

(d) The liability imposed by this section shall not reduce, substitute for or in any manner be deemed to be in derogation of the rights accorded victims of dog bite injury or property damages as provided for at IC 15-5-12, et seq. or by common law.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2009, at \_\_\_\_\_ p.m.

ATTEST:

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Bob Cockrum  
President, City-County Council

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Melissa Thompson  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2009, at 10:00 a.m.

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Melissa Thompson  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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Gregory A. Ballard, Mayor