

DRAFT
MOTION TO AMEND
PROPOSAL NO. 370, 2006

Mr. Chairman:

I respectfully move that Proposal No. 370, 2006, currently before this committee, be amended by inserting the language as underlined or double underlined and by deleting that language which is stricken through, as follows:

Councillor

CITY-COUNTY GENERAL ORDINANCE NO. , 2006

A GENERAL ORDINANCE amending the Revised Code of the Consolidated City and County by amending Chapter 531, Animals.

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

SECTION 1. Sections 531-101 through 531-105 and Sec. 531-109 of Chapter 531 of the Revised Code of the Consolidated City and County are hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

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 ~~city~~ department of public safety.

At large means not confined without means of escape in a pen, corral, yard, cage, house, vehicle or other secure enclosure, unless otherwise 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.

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. For more specific definitions applicable for law enforcement, dangerous, crime prevention and service animals, see Sec. 531-501 of this Code.

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.

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.

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:

- (1) Police officers, federal or state armed forces, park rangers, game wardens, conservation officers and other such governmental agencies, with respect to actions which 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.

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

Quarantining authority means the city 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.

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

(a) It shall be unlawful for the owner or keeper of an animal to cause, suffer, or allow that animal which is owned or kept by such person to be at large in the city.

(b) Except as provided in subsection (c) of this section, the first violation in any twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau as provided in Article III of Chapter 103 of this Code, and all second and 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**).

(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, 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; and, such conduct, by a dog, may be deemed by animal control to be evidence of a potentially dangerous dog which means the dog may pose a threat to public safety, if the dog's owner is cited two (2) or more times by animal control within a twelve (12) month period. Such a determination that the animal is potentially dangerous by animal control, will require that the owner register the animal pursuant to the provisions of Section 531-502 of this Chapter and the confinement provisions of Sec. 531-103 of this Chapter.

Sec. 531-103. Confinement of female animals in heat, dangerous animals.

(a) The owner or keeper of any female animal in heat kept in the city shall confine the animal within a secure enclosure and in such a manner as to prevent it from becoming a nuisance.

(b) Confinement of a dangerous dog or animal means confinement to a fenced yard from which the dog or animal may not escape by slipping under or over the fence or through an open gate or which would allow the animal to bite or to otherwise wound a person who may brush against or stick a hand or finger in, over or through the fence. Such an animal may be confined in an owner's home. The animal's confinement must be such as will prevent the animal from harassing neighbors or passersby and may not constitute either a sight, smell or noise nuisance.

(c) The owner of a dangerous dog may not cause, suffer or allow it to go unconfined, unrestrained or to run at large on any public street or byway, right-of-way, or any municipally owned or public land or public building, at any time, or upon any private property without the permission of the owner of such private property.

(d) Any violation of this section shall subject the owner or person in possession of the animal to the enforcement provisions of section 103-3 of the Code, and the fine imposed shall not be less than ~~fifty dollars (\$50.00)~~ **five hundred dollars (\$500.00)** dollars for the first violation; not less than ~~one hundred dollars (\$100.00)~~ **one thousand dollars (\$1000.00)** for a second violation; and upon a third violation, the animal shall be seized in accordance with section 531-721, *et seq.* If such violation results in the dog causing serious injury to any person, the court shall, upon request, order the animal forfeited and/or destroyed.

Sec. 531-104. Keeping swine.

It shall be unlawful for a person to keep swine on premises in the ~~police special service district of the~~ consolidated city and county, unless such premises are stockyards, slaughterhouses, or other premises where the keeping or raising of livestock is permitted by county zoning ordinances. This restriction shall not apply to person who keeps a pot bellied pig as a pet.

Sec. 531-105. Keeping horses, ponies, mules, donkeys, jackasses, and llamas.

It shall be unlawful for a person to own, keep, or breed a horse, pony, mule, donkey, jackass, or llama in the consolidated city and county on premises which measure less than eight thousand (8,000) square feet in a lot area per animal, unless such premises are registered as a stable under Chapter 836 of this Code.

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

(a) It shall be unlawful for an owner or keeper of an animal to allow that animal to attack and injure a person who did not provoke the animal prior to the attack. For purposes of this section, 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.

(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.

(3) The person or animal was bitten while teasing, or tormenting an animal that was not at large at the time of the attack.

(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 I.C. 15-5-12, et seq. or by common law.

SECTION 2. Sections 531-202 of Chapter 531 of the Revised Code of the Consolidated City and County is hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

Sec. 531-202. Permanent identification of dogs and cats required.

(a) A person who owns a dog or cat in the consolidated city and county shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the owner of a lost or stolen dog or cat can be ascertained quickly and easily.

(b) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this Code, ~~and shall include either:~~ be by means of a

~~(1) A microchip implanted in the dog or cat or animal 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 by the dog or cat, and bearing the owner's current name, address and telephone number.~~

(c) Each veterinarian or other person in the consolidated city and county who implants microchips as contemplated in this section shall, at an interval of not less than once each month, send to the animal care and control division the names, addresses, and phone numbers of the owners of the dogs and cats, and the corresponding microchip identification numbers. Such records shall be available to animal care and control division without court order.

(d) It shall be unlawful for a person to own a dog or cat three (3) months of age or older which is kept in the consolidated city and county, and which does not bear a permanent means of identification as provided in this section. A violation 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 one hundred dollars (**\$100.00**).

SECTION 3. Sections 531-401 and 531-404 of Chapter 531 of the Revised Code of the Consolidated City and County are hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

Sec. 531-401. General requirements for animal care and treatment.

(a) Every owner or keeper of an animal kept in the consolidated city and county shall see that such animal:

(1) 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; the person(s) responsible for animal(s) shall regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact;

(2) Has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely;

(3) Shall not be tethered by use of a choke collar, or on 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, nor by a leash less than twelve (12) feet in length, or of such unreasonable weight as to prevent the animal from moving about freely;

(4) Is protected against abuse, cruelty, neglect, torment, overload, overwork, or any other mistreatment;

(5) Shall provide the reasonably necessary medical care, in addition to the required rabies vaccination which shall include recommended vaccinations as required by accepted veterinary standards, and if diseased or injured, or exhibiting symptoms of disease, receives proper care and is segregated from other animals so as to prevent transmittal of the disease; ~~and~~

(6) Is maintained in compliance with all applicable federal, state and local laws and all regulations respecting animal care and control as are adopted by the ~~city~~ department of public safety and in effect from time to time; and

(7) Shall cause the animal to be spayed or neutered unless such animal is registered pursuant to Sec. 531-502 as a show, breeder, law enforcement, service or competition animal or crime prevention dog pursuant to Sec. 521-503. Such animal or dog must be spayed or neutered when it is no longer employed by its owner(s) as a show, breeder, law enforcement, service, competition or crime prevention animal or dog.

(b) It shall be unlawful for a person to beat, starve or otherwise mistreat any animal ~~in the city~~, or to fail to comply with any requirement of subsection (a) of this section.

(c) It shall be unlawful to tether any animal at a vacant structure for any purpose.

~~(e)~~ d) In the discretion of the enforcement authority, as that term is defined in section 531-711 of this Code, a person who violates any provision of this section for the first time may be given written notice of the practices or conditions which constitute the violation, and the enforcement authority shall in such instance direct remedies to such person where appropriate and provide a time period of no longer than thirty (30) days within which to correct the violation(s). Failure of the person to correct the violations within the specified time period shall constitute prima facie evidence of this section.

~~(d)~~ e) A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, the fines imposed for any such violations shall be as follows:

(1) For the first violation, not less than twenty-five dollars (**\$25.00**); and

(2) For the second or subsequent violations, not less than two hundred dollars (**\$200.00**), and the court upon request shall order forfeiture or other disposition of the animal involved. A judgment by the court which orders forfeiture or other disposition of the animal by the city or

any third party shall include as a part of such judgment adequate provisions for the collection of costs of forfeiture or impoundment from the person found in violation.

Sec. 531-404. Animal fights. It shall be unlawful for a person to incite, train to fight (other than a law enforcement animal, crime prevention dog or service animal) or set any animal to fighting another animal or to incite combat between animals and humans in the consolidated city and county.

SECTION 4. Art. V of Chapter 531 and Sections 531-501 through 531-503 of the Revised Code of the Consolidated City and County are hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

ARTICLE V. WILD, SERVICE, LAW ENFORCEMENT OR DANGEROUS ANIMALS; AND CRIME PREVENTION DOGS- ANIMALS

Sec. 531-501. Definitions.

For purposes of this article, the following terms shall have the meanings ascribed to them in this section.

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

Dangerous dog means and includes any dog which, because of its aggressive nature, training or characteristic behavior, is capable of inflicting physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance.

Service animal means and includes a dog or other domestic animal which is certified and trained for use by its owner or keeper primarily to assist persons with special needs.

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.

Wild or dangerous 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~~
- (2) A venomous snake, poisonous amphibian, or other large reptile; ~~;~~ and
- (3) The term includes any dog or animal which has: a) attacked a person or a domestic animal without having been provoked by that person or animal; b) attacked at a place other than its owner's property; or c) chased or approached a person or domestic animal at some place other than its owner's property, in a menacing fashion or apparent attitude of attack.

Sec. 531-502. Wild, and dangerous animal; registration required; limitation on ownership.

(a) It shall be unlawful for a person to own a wild or dangerous animal or dangerous dog in the city without first having registered the animal with the animal care and control division under this article; however, this section shall not apply to zoological parks or bona fide circuses or carnivals.

(b) It shall be unlawful for any person, firm, corporation, organization or department to own, possess or maintain more than two (2) dangerous dogs or animals at any time within the bounds of the consolidated city and county, unless the possessing entity is a duly licensed kennel as defined at sec. 531-101 of this Code.

Sec. 531-503. ~~Crime prevention dog; R~~egistration required.

(a) It shall be unlawful for a person to own a show, breeder, law enforcement, service, competition or crime prevention dog in the city without first having registered the animal with the animal care and control division under this article.

(b) Notwithstanding the provisions of section 531-202 of the Code, each show, breeder, law enforcement, service, competition or crime prevention dog shall be implanted with a microchip which bears a registered identification number.

SECTION 5. Sections 531-721 and 531-733 of Chapter 531 of the Revised Code of the Consolidated City and County are hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

Sec. 531-721. Grounds for impoundment.

(a) Any animal found at large in violation of this chapter shall be captured and impounded.

(b) Any animal found confined or abandoned on private property in violation of this chapter or section 836-5 of this Code shall be impounded.

(c) Any dangerous animal found at large or not confined as required by this chapter shall be captured, impounded and its release shall be subject to the provisions of Sec. 531-733.

SECTION 5. Sec. 531-733 of Chapter 531 of the Revised Code of the Consolidated City and County is hereby amended by deleting the text that is stricken through and adding the language that is underlined as follows:

Sec. 531-733. Restrictions on return of certain animals.

(a) Notwithstanding any other provision of this chapter, an animal which has been impounded under this article for a violation of section 531-103, 531-109, 531-204, or 531-305, or a violation of article IV, of this chapter, or which has been impounded on two (2) or more prior occasions, or which has bitten or otherwise caused serious injury to person or property 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 these sections.

(b) If such a determination cannot be made, or Sec. 531-103(d) is applicable, the enforcement authority then shall apply to a court of competent jurisdiction for an order to dispose of the animal under the provisions of section 531-731 of this article.

SECTION 6. This ordinance shall be in full force and effect. . . .