

GENERAL ORDINANCE 2009- 5

AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE, previously adopted in General Ordinance 2000-8 as amending and replacing General Ordinance 1958-11 and as amended by General Ordinance 1975-3

WHEREAS, the Town Council of the Town of Sweetser, Indiana, deem it necessary to further clarify the existing Animal Control Ordinance, General Ordinance 2000-8 and after Public Hearing on the same on the proposed amendments held on ~~SEPTEMBER 23~~ 2009

NOW, THEREFORE, BE IT ORDAINED by the Town Council, Town of Sweetser, Indiana that:

SECTION 1.

The Sweetser Town Code is amended as follows:

Section 36-8-2-6, Animal Control, is amended as follows:

ANIMAL CONTROL:

(A) For the purpose of this section, the following terms shall be defined as set forth below.

- (1) Animal means any living non human, warm blooded, vertebrate creature, or reptile, domestic or wild.
- (2) Animal Shelter means any premises designated by the Town as a site for impounding and caring for animals confined under this Code section.
- (3) Animal Control Officer means those persons designated by the Animal Control Service to enforce this Code section.
- (4) Animal Control Service means the persons, partnership, corporation, association or society designated by the Common Council of the Town of Sweetser to enforce this ordinance, which shall be Marion Animal Care and Control until such time as changed by the action of the Common Council of the Town of Sweetser.
- (5) Owner means any person owning, harboring, or keeping any animal.

(6) Restraint means confinement of the animal to the premises of the owner. If the animal is not on the premises of the owner, restraint means the animal shall be accompanied by a responsible person as the owners agent who shall keep the animal on a leash, chain or confinement in a fenced area.

(7) Abandonment means the voluntary relinquishment of possession by the owner with the intention of terminating his ownership for seventy-two (72) hours, but without vesting possession in any other person.

(B) No Owner shall fail to keep any of his or her animals under restraint.

(C) Unrestrained animals may be taken by the Town Police Department or Animal Control Officer, and impounded in an animal shelter, and there confined in a humane manner. Impounded animals shall be kept for not less than seventy-two (72) hours unless reclaimed by their owners. Animals not reclaimed by their owners within seventy-two (72) hours may be humanely disposed of by the Animal Control Service or adopted by a new owner.

(D) An owner reclaiming an impounded animal shall pay a fee to the **Town Police Department or Town Clerk Treasurer** of seventy-five dollars (\$75.00) per day or the then current charge of the Animal Control Service. **Upon payment a receipt shall be issued to the owner.** If those fees are not paid, the animal shall be humanely disposed of or adopted by a new owner. The owner shall be deemed guilty of an Ordinance Violation.

(E) Every female dog and cat in estrus (heat) shall be confined in a building or secure enclose, (for the purposes of this section, a chain or fence shall not be considered a "secure enclosure" unless it is enclosed on all six sides), so that an owner who reclaims an animal in heat within seventy-two (72) hours of impoundment must leave the animal in the shelter until the animal is no longer in heat, at the cost equal to the cost of housing at the Animal Control Service of seventy-five dollars (\$75.00) or the current charge of the Animal Control Service. If the owner shows proof of spaying or neutering the animal within fifteen (15) days after reclaiming, the boarding costs will be refunded to the owner.

(F) No owner shall allow his or her animals to become a public nuisance. Animals who engage in excessive, continuous or untimely barking, harassing persons,

chasing vehicles, trespassing, damaging private property shall be deemed a public nuisance, and shall be impounded at the **discretion of the Animal Control Officer.**

(G) The person responsible for any animal which has bitten a person or another animal must report the incident to the Animal Control Service or local Law Enforcement. Any animal which bites a person or which has possibly been exposed to rabies shall be quarantined for not less than ten (10) days in an animal shelter, in a kennel, or with a veterinarian. During quarantine if the animal is confined in the animal shelter, a charge equal to the actual costs of housing the animal, seventy-five dollars (\$75.00) per day or the current charge of the Animal Control Service. Also during the quarantine period, the owner must provide current rabies vaccination certificate for his or her cat or dog that is being quarantined. If proof of vaccination cannot be supplied, the animal will be vaccinated by a veterinarian at the owner's expense before release. Upon receiving information about the animal which has bitten a person or which has possibly been exposed to rabies, the Police Department shall notify the animal shelter. If a veterinarian determines that an animal in quarantine is a possible rabies carrier, the County Health Officer shall be notified. Any necessary action shall be to confirm the diagnosis and disposal of the animal.

(H) Each owner of a dog/cat which dog/cat is above the age of six (6) months must procure a rabies vaccination for the animal **in compliance with State Law.** At the time of the vaccination, the owner shall purchase a rabies tag from the veterinarian. The animal must wear the tag at all times.

(I) No owner shall recklessly fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from the weather. This means at least a three (3) sided roofed doghouse. Veterinary care when needed shall be provided to prevent suffering, for humane care and treatment. No person shall recklessly beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse any animal, or cause or permit any dog fight, cock fight, or other combat between animals. No owner of any animal shall abandon that animal. No person other than a licensed veterinarian shall crop a dog's ears.

(J) No animal shall be tied, fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied or fastened to be restrain them

must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. 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 collar or harness and shall be at least twelve (12) feet of free length. No animal will be tethered for twenty-four (24) hours per day. Reasonable exercise will be provided for the animal by its owner.

(K) Animals found in cruel, abusive, neglectful situations or abandoned, as defined in section (A) may be promptly impounded if no immediate contact with a responsible person can be made; provided however, that the Animal Control Officer shall attempt to leave written notice on the door of the residence saying the location of the animal and the reason for impoundment. Animals so removed will be impounded and held at the Animal Control Service or a designated facility until such time the violator is in compliance with this chapter; provided however, that in no event shall this period exceed ten (10) days, at which time the animal shall become the property of the Animal Control Service, unless an extension in time is necessary for the Animal Control Officer to have ample time to prepare a court case if prosecution is warranted. Animals impounded for reasons beyond the control of the owner such as but not limited to quarantine, house fire, death of the owner or arrest of the owner, will be held for ten (10) days during which time a reasonable effort will be made to contact the owner and/or representative. After the tenth day of impoundment, the animal will become the property of the Animal Control Service. Animals awaiting disposition by the court shall remain in custody of the Animal Control Service, unless such disposition is made, or placed in a foster home until legal arrangements have been completed. Animals so removed may be transported to a licensed veterinarian for examination and/or treatment. If, the opinion of said veterinarian, the animal must be destroyed, euthanasia will be **performed** immediately. Costs of treatment, euthanasia and/or care shall be responsibility of the owner or owners agent.

(L) All animals kept inside, or in a pen, tied or fastened, leashed or enclosed by a fence shall be kept in a sanitary manner. The persons responsible for the animals shall regularly clean as often as necessary to prevent odor or health and sanitation problems, and shall regularly maintain all areas of the animals confinement.

(M) Persons responsible for an animal shall immediately remove the animal's excrement from public lands, sidewalks and the right of way (property between sidewalks and the streets) or from the property of another, excepting a visually impaired person working with service dogs.

(N) Any person operating a motor vehicle who causes injury or death to an animal shall stop at once, assess the extent of the injury, and immediately notify the owner or the Animal Control Service or the Police Department.

(O) No animal shall be left unattended in a vehicle in excessive heat (based upon Standardized Veterinarians Report) or when these conditions in the vehicle would constitute a health hazard to the animal.

(P) This section of the ordinance shall apply to "vicious canines". "Vicious canines" include:

(1) Any canine which, according to the records of the appropriate authority; provided this section shall not apply to animals under the control of a law enforcement or military agency;

(a) Did bite or attack once, causing wounds or injuries creating a potential danger to the health or life of a human being without provocation in a public or private place where the persons was conducting himself peacefully and lawfully;

(b) Requires defensive action by a person to prevent physical injury or property damage, where the dog has acted without provocation, in a public or private place where the person was conducting himself peacefully and lawfully;

(c) Could not be controlled or be restrained at the time of a bite or attack upon an animal or person; and

(2) Any canine owned, harbored or trained primarily or in part for the purpose of canine fighting.

(Q) A canine shall be declared a "vicious canine" only after the Animal Control Service has received an Affidavit of Complaint by an individual under oath, stating all pertinent facts to support the allegation that the canine is vicious. The Animal Control Service shall file a complaint if valid; and the Animal Control Service shall file a complaint in a Court of general jurisdiction. The Court after hearing all the evidence shall make the final determination as to whether the dog qualifies as a "vicious crime".

- (1) Any owner of a dog which qualifies under the statute as a “vicious canine” must:
 - (a) Register the canine with the Animal Control Service within three (3) months of the effective date of the ordinance, which registration shall include two (2) color photographs of the canine.
 - (b) Notify the Animal Control Service immediately if the canine is given or sold to a new owner, at this time providing the Animal Control Service with the new owner’s name, address and telephone number. Registration will continue, but the new owner must comply with the other provisions of this statute.
 - (c) Notify the Animal Control Service immediately if the canine becomes loose or unconfined, attacks livestock, another domestic animal or a human being, or inflicts and causes property damage.
 - (d) Notify the Animal Control Service of all offspring born to the canine.
 - (e) Notify the Animal Control Service of the death of the canine.
 - (f) Confine the canine in a humane way on the inside or outside of the owner’s property, in a “secure enclosure” (as described in section E of this Code) so that it cannot escape of its own violation. The owner’s property must contain a sign easily readable to the public saying “Beware of Dog”.
 - (g) Allow the canine to go off of the owner’s premises only when it is muzzled and kept on a leash or restraint, more than six (6) feet long, under the control of a responsible person.
 - (h) The canine must be “tattooed” or have a microchip placed in the animal by a licensed veterinarian.
 - (i) Upon a 2nd unrelated bite conviction; the canine may become the property of the Animal Control Service, by order of the Court for euthanasia.

A violation of this section of the ordinance shall be subject to the penalties described in all other parts of the ordinance. In addition, the judge in his discretion can order the canine impounded in the Animal Control Service, at the owner’s expense, until

the owner complies with the terms of this section, or can order the destruction of the animal when necessary, to preserve the public health, safety and the welfare of the community.

(R) No person shall place or keep any of the following animals within the Town limits of the Town of Sweetser: any hoofed animals, including but not limited to poultry, equine (horses, mules), porcine (pigs), bovine (cattle), sheep or goats. This section shall not apply to ducks, geese, or swans, which are confined in an owner's yard containing a pond or other water area.

(S) It shall be unlawful and is hereby declared to be a public nuisance for any person to use, place set or cause to be set within the town or upon lands owned by the Town any traps except cage type traps approved by the Animal Control Service and used for the control of unrestrained or potentially dangerous animals. The prohibition shall not apply to any trap specifically designed to kill rats, mice, gophers or moles so long as the owner of the property is aware of the location where the trap(s) are set and monitors said trap(s) at least once every twenty-four (24) hours.

Traps discovered by the Animal Control Service to have been unlawfully set in the Town may be seized and used as prima facie evidence that a violation has been committed. Upon conviction, said trap(s) shall be forfeited to the Town and disposed of by the Animal Control Service.

(T) Any person who shall become apprised of the death of any animal owned by him shall, within twelve (12) hours thereafter, cause the same to be removed from the premises and taken to the Animal Control Service, veterinarian or cemetery for disposal.

(U) The Animal Control Officer shall have police powers in the enforcement of this Code section. No person shall interfere with, hinder, molest or abuse the Humane Officer in the exercise of these powers. Police powers shall not include the right to carry or use firearms to enforce this ordinance, unless that Animal Control Officer is a Law Enforcement Officer as defined by IC 35-41-1-17.

(V) Any person who violates any provision of this Code section may be issued a citation or a warning instead of a citation as deemed appropriate by the investigating Animal Control Officer. Upon conviction of the citation, the violator shall be fined not less than Twenty-Five dollars (\$25.00) for the first offense, Seventy-Five dollars (\$75.00)

for the second offense, One Hundred Twenty-Five Dollars (\$125.00) for the third offense, and Two Hundred Fifty Dollars (\$250.00) for the fourth offense. Each day any violation continues or occurs shall be deemed a separate violation.

SECTION 2.

This Ordinance shall become effective upon the required publication.

ADOPTED, THIS 22nd DAY OF OCTOBER, 2009, by the Town Council of the Town of Sweetser, Indiana



ATTEST:

V. Jill Johnson
V. Jill Johnson, Clerk Treasurer
Town of Sweetser

Mary Asher
Mary Asher, President

Robert D. Highley
Robert Highley, Vice President

Howard B. Schick
Howard B. Schick

Virginia E. Hiatt
Virginia E. Hiatt

Charles V. Briede
Charles Briede

This instrument was prepared by Kim A. Rogers, ROGERS & ROGERS, P.C., 525 South Washington Street, Marion, Indiana 46953.