ORDINANCE NO. 2019- 30-CM
AMENDING TIPPECANOE COUNTY CODE CHAPTER 90
ANIMAL CONTROL

WHEREAS, the Board of Commissioners have the duty and authority to increase public safety and enhance the public welfare by regulating the possession and treatment of animals in Tippecanoe County;

WHEREAS, the Board of Commissioners had previously adopted Chapter 90 of the Tippecanoe County Code concerning Animal Control; and

WHEREAS, the Board of Commissioners seek to improve and clarify Chapter 90 of the Tippecanoe County Code:

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that the Tippecanoe County Code be amended by repealing existing Chapter 90 and replacing it with a new Chapter 90 as follows:

90.01 APPLICATION

(a) Except as provided in subsection (b), this chapter does not apply to animals kept in the business of commercial farming. Nothing in this chapter is intended to limit the applicability or enforcement of zoning ordinances in Tippecanoe County including, without limitation, those restricting the number of animals permitted in a given area.

(b) Notwithstanding subsection (a), the provisions in section 90.03(1) and (2) which prohibit an owner from permitting an animal to be at-large or damage the property of another shall apply also to animals kept in the business of commercial farming.

90.02 DEFINITIONS

As used in this chapter, the following definitions have the following meanings:

(a) "Abandoned" means an animal, the possession of which has been voluntarily relinquished by its owner without vesting ownership or the right to possession in any other person.

(b) "At large" means an animal not under the immediate control of an individual or restrained by an enclosure, leash, chain, or other device of actual physical restraint. This definition applies regardless of whether the animal is on or off the premises of its owner.

(c) "Animal Control Officer" means the individual designated as Animal Control Officer by the Sheriff of Tippecanoe County or, if no designation has been made, the Sheriff of Tippecanoe County. The Animal Control Officer may, further, delegate duties under this chapter.

(d) "Animal Shelter" means a facility for the sheltering and disposal of impounded, abandoned, or surrendered animals with which Tippecanoe County has an agreement for provision

of such services.

(e) "Nuisance" means an animal that unreasonably annoys a person other than the owner, that endangers the health of individuals or other animals, or substantially interferes with the rights of others to quiet enjoyment of their life or property.

(f) "Official Warning" means a written notice, without further sanction, of a violation of this Chapter from the Animal Control Officer or his designee to the owner of an animal.

(g) "Owner" means a person that owns, keeps, or harbors an animal. For purposes of this Chapter, a person that feeds or shelters an animal for three consecutive days or more is an owner of the animal. However, a person who feeds or shelters a feral cat will not be regarded as an "owner" under this subsection if the person notifies the Animal Control Officer of the feral cat within twenty-four (24) hours of first feeding or sheltering the feral cat.

(h) "Restraint" means securing an animal by means of a leash or lead while: a) on the real property of the owner or other person who consents to the animal's presence; or b) under the control of the owner or other willing individual capable of being responsible for the animal.

(i) "Hazardous Animal" means an animal that attacks, bites, or injures humans or domesticated animals without adequate provocation or an animal with a known propensity to attack, bite, or injure humans or domesticated animals.

90.03. PROHIBITED ACTS

(a) An owner shall not do any of the following:

(1) Permit an animal to be at-large.
(2) Permit an animal to damage the property of another.
(3) Permit an animal to molest or intimidate pedestrians, bicyclists, or other passers-by.
(4) Permit an animal to chase vehicles.
(5) Permit an animal to make excessively disturbing noises including, without limitation, continued or repeated howling, barking, whining, or other noises unreasonably disturbing the quiet enjoyment of life or property by neighbors or others in close proximity to the animal.
(6) Cause or allow the owner's animals to cause fouling of the air by odor in a manner that unreasonably disturbs the quiet enjoyment of life or property by neighbors or others in close proximity to the animal.
(7) Cause or allow the owner's animals to cause unsanitary conditions in enclosures or surroundings where the animal is kept or harbored or subject the animals to unsanitary conditions which are hazardous to the health or well-being of the animal.
(8) Maintain animals in quantity or type that is offensive or dangerous to public

health, safety or welfare or maintain animals in a quantity greater than the owner can properly care for such that conditions are hazardous to the health or well-being of the animal.
(9) Cause or permit an animal to attack other domestic animals.
(10) Abandon an animal.
(11) Permit an animal to be a nuisance animal within the meaning of Section 90.02(e).

(b) For purposes of this section, failure of the owner to control the animal either actively or through the use of an enclosure or physical restraint, constitutes "permission" to engage in the activities described in subsection (a). The fact that an animal was at-large shall create a rebuttable presumption that the owner failed to control, enclose, or physically restrain the animal.

90.04 INOCULATION

(a) All dogs, cats, and other animals specified by 345 IAC 1-5 or other applicable state law must be inoculated against rabies prior to reaching three (3) months of age and not less than every three (3) years thereafter. It is the duty of the dog's owner, as defined in this Chapter, to ensure that the dog is inoculated. The owner shall retain documentation of the inoculation and produce it to the Animal Control Officer upon request.

(b) This section shall not be construed to impose an obligation on the County to inoculate animals.

90.05 RESTRAINT

(a) This section is in addition to the other responsibilities imposed by this Chapter and shall not be construed to limit those responsibilities.

(b) The owner of a dog or cat in heat shall confine the animal in a building or secure enclosure that prevents the animal from coming into contact with another animal except for planned breeding purposes.

(c) The owner of a Hazardous Animal shall confine the animal within a building or secure enclosure except that the animal may be allowed out of such confinement provided that the animal is muzzled and under the immediate control of the owner or other responsible individual by means of a leash. If the enclosure is in the nature of a fence, to be compliant with this subsection, the enclosure must be secured with a lock while the animal is confined.

(d) Dogs restrained through rope, chain, or cable must have unobstructed freedom of movement of a minimum of twelve feet and an arc of not less than 180 degrees. This subsection does not apply to the use of a leash while the dog is being walked.

90.06 HUMANE TREATMENT OF ANIMALS

(a) An owner must provide the owner's animal with humane care and treatment which includes, without limitation, proper nutrition and potable water, proper air and ventilation, sanitary conditions, sufficient shelter space and protection from weather, adequate exercise, and veterinary care sufficient to prevent suffering. This subsection shall be construed to prohibit,

without limitation, leaving an animal unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal. As used in this subsection, "adequate exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

(b) A person may not abuse an animal through beating, cruelty, mutilation, torment, overload, overwork, or otherwise. Additionally, a person may not abuse an animal by subjecting the animal to inhumane environmental conditions that are detrimental to the animal's health and welfare.

(c) A person may not cause, instigate, or permit a dogfight or other combat between animals or between humans and animals.

(d) A person who injures or kills a domestic animal through use of a motor vehicle must immediately stop, render such assistance as is possible, and report the injury or death to the animal's owner. If the owner cannot be ascertained or located, the person must report the injury or death to the Sheriff.

(e) A person may not endanger an animal by placing a poisonous substance in a manner such that it is likely to be consumed by a domestic animal.

90.07 HABITUAL OFFENDER

An individual who has received three (3) or more warnings, citations, or a combination thereof for violations of this Chapter shall be deemed a habitual offender. It shall be an affirmative defense, with the burden of proof on the alleged offender, that one or more of the qualifying three (3) citations or warnings was unjustified. A prior citation for which the individual prevailed in a challenge is not a qualifying citation for purposes of this section. A citation or warning which was issued more than ten (10) years prior to the most recent warning or citation is not a qualifying citation or warning for purposes of this section.

90.08 IMPOUNDMENT

(a) The Board of Commissioners shall enter into an agreement with one or more animal shelters with facilities within the county. The agreement must provide for acceptance by the animal shelter of impounded animals and notification of impoundment by the shelter to the animal's owner as described herein. The agreement shall also provide for the collection and remittance of redemption fees for impounded animals. An agreement under this subsection or subsection (h) may include a provision allowing the County to bring, as an assignee, subrogee, or otherwise, an action against an Owner for money owed to the shelter or facility by the Owner for services provided under this Chapter.

(b) The Animal Control Officer may impound the following animals:

(1) Unrestrained animals.

(2) Nuisance animals.

(3) Animals that are at-large or otherwise not properly confined, secured, or restrained.

(4) Abandoned animals.

(5) Animals that are not being humanely treated.

The Animal Control Officer shall determine whether an owner may reclaim and redeem the

animal. The decision shall be at the Animal Control Officer's discretion but must give due consideration to the reason for impoundment. In cases involving the inhumane treatment of animals, such consideration shall also include whether the Owner has corrected or remediated the condition giving rise to the impoundment. The Animal Control Officer shall inform the animal shelter receiving the animal of the officer's determination.

(c) Impoundment for the violations described in subsection (b) may take place upon the Animal Control Officer's direct knowledge of the violation or upon the submission of a written, verified complaint to the Animal Control Officer if the Officer determines the complaint to be credible.

(d) In lieu of impoundment, the Animal Control Officer may, at the discretion of the Officer, issue a written warning for violations described in subsection (b).

(e) Within twenty-four (24) hours of impoundment, the animal shelter receiving the animal shall notify the owner, if known, of the impoundment. The notification may be made by direct communication with the owner or by means of telephone or by deposit of written notice in the ordinary United States mail, postage pre-paid. The notice must advise the owner of whether and under what terms an animal may be reclaimed and redeemed. In the event the owner is not known, publication in a newspaper of general circulation within the county is permitted but not required.

(f) The Animal Control Officer shall comply with a court order that directs the officer to impound an animal. The Animal Control Officer may apply to the court for a bond to secure the costs of complying with such an order.

(g) In the case of an animal suffering from rabies, mange, or other infectious or contagious disease or from a condition that leaves the animal severely debilitated, the Animal Control Officer may determine that the animal must be destroyed immediately. If the Animal Control Officer makes such a determination under this subsection, the animal may be destroyed by the animal shelter or other means without prior notice to the owner.

(h) Notwithstanding subsection (a), the Board of Commissioners may enter into agreements, on a case by case basis, for impoundment of exotic animals, large animals, or other animals for which the shelter(s) described in subsection (a) are unable or unwilling to provide impoundment services or if, at the discretion of the Board, circumstances justify the case-by-case placement. Agreements under this subsection may include such terms as are reasonable under the circumstances.

(i) Unless a veterinarian provides a written statement indicating that the animal should not be microchipped due to health reasons, the Animal Control Officer shall require that an animal impounded under subsection (b) be microchipped. The microchipping may be done by the Animal Control Officer or the animal shelter directly, with the Owner required to pay the reasonable fee of such microchipping. The Animal Control Officer may require an Owner to obtain the microchipping service and, at the Animal Control Officer's discretion, may make the microchipping a condition of receiving a warning instead of a citation under this Chapter.

90.09 RECLAIMING AND REDEEMING IMPOUNDED ANIMALS.

(a) This section applies when an impounded animal is permitted by the Animal Control Officer to be reclaimed and redeemed.

(b) If the Animal Control Officer or other county employee was involved in picking up or

capturing the animal, the owner shall pay a redemption fee of twenty-five dollars ($25). This fee is in addition to the owner's liability for other costs which may be associated with the impoundment.

(c) The animal shelter may, in addition, impose a sheltering fee for animals impounded under this section not greater than the prevailing fees charged by boarding kennels in the county for each day or part thereof the animal is impounded. The shelter may also charge an impoundment fee to defray costs of handling and record keeping.

(d) The shelter may, at its discretion, decline to release an animal until the shelter receives sufficient proof or assurances that the animal has been or will be inoculated as required by law.

(e) The shelter may, at its discretion, decline to release an animal until the shelter receives sufficient proof or assurances that the animal has received or will receive a microchip implant that contains ownership information for the animal. Alternately, the shelter may provide the animal with a microchip implant with ownership information on its own and charge the owner a reasonable fee for the service. However, the shelter may not exercise its discretion under this subsection if a veterinarian provides a written statement indicating that the animal should not be microchipped due to health reasons.

(f) An owner must redeem and reclaim or relinquish ownership of an animal within three (3) days of receiving notice of impoundment. If the owner fails to redeem and reclaim the animal within three (3) days of receiving notice of impoundment, in addition to the penalties imposed under section 90.12, the owner is deemed to have relinquished ownership and the animal shelter may dispose of the animal or place the animal with a new owner. If the owner of the animal is unknown or if notification of the owner is not reasonably practicable, the animal shelter may dispose of the animal or place the animal with a new owner following not less than five (5) days of impoundment.

90.10 MANDATORY MICROCHIPPING AND STERILIZATION

(a) Owners who commit a violation of Sections 90.03 (Prohibited Acts), 90.04 (Inoculation), 90.05 (Restraint), 90.06 (Humane Treatment), or 90.07 (Habitual Offender), must, in addition to paying the fines imposed for those violations, have the subject animal microchipped. The Animal Control Officer may, at his discretion and subject to his ability to do so, offer to provide the microchipping service for which he will charge a fee in the amount of $25. This subsection does not apply to an animal that has already been microchipped.

(b) Subject to subsection (d), Owners who commit a violation of Sections 90.03 (Prohibited Acts), 90.04 (Inoculation), 90.05 (Restraint), 90.06 (Humane Treatment), or 90.07 (Habitual Offender), must, in addition to paying the fines imposed for those violations, have the subject animal sterilized or agree to do so. This subsection does not apply to an animal that has already been sterilized.

(c) Subject to subsection (d), if an Owner is required to have the Owner's animal sterilized under subsection (b), the Owner shall sign an agreement to have the animal sterilized within thirty (30) days.

(d) Subject to the limitations in this subsection, an owner who is required to have an animal sterilized under subsection (b) and enter into an agreement under subsection (c) may, in the alternative, decline to enter into an agreement and, instead, pay a fine of $250. This alternative

fine is not available to the following: habitual offenders under section 90.07, those who commit animal cruelty under 90.06(b) and (c), those who have failed to abide by a prior agreement under subsection (c), and those who fail to restrain a *Hazardous Animal* under 90.05(c). Those Owners who are not permitted to decline under this subsection shall be deemed to have entered into an agreement under subsection (c) and are subject to the penalties specified under subsection (e) if they fail to have their animal sterilized.

(e) If the Owner enters into an agreement under subsection (c) and fails to comply with the agreement, the Owner is subject to a fine of $2,500 and an order of injunctive relief requiring specific performance of the agreement.

(f) If a veterinarian provides a written opinion that microchipping or sterilizing an animal would be detrimental to the health of the animal, the time for performing under an agreement under subsection (c) shall be delayed to such time as is specified by the veterinarian. If no time is specified by the veterinarian, the time for performance shall be delayed for six months.

90.11 ENFORCEMENT

(a) The Animal Control Officer shall maintain a record of impounded animals. The record shall show the date of impoundment, the reason for impoundment, the individual delivering the animal to the shelter, and identifying information about the animal including, to the extent known: kind, gender, color, breed, and identifying collars, tags or marks. If known, the record should also include identifying information about the owner.

(b) In addition to impoundment of an animal under Section 90.08, if a person is in violation of this Chapter, the Animal Control Officer may issue a written warning or a notice of ordinance violation.

(c) If the Animal Control Officer issues a written warning, the warning must state, if known to the officer, the name of the person being warned, the nature of the violation, the date of the violation, and may include any other information the Animal Control Officer deems pertinent. The Animal Control Officer may make a warning conditional on an owner having the animal sterilized and/or microchipped with a notice of ordinance violation to issue if the sterilization and/or microchipping does not take place within such reasonable time as the Animal Control Officer may specify. If the Animal Control Officer issues a warning for violations under Sections 90.03 (Prohibited Acts), 90.04 (Inoculation), 90.05 (Restraint), 90.06 (Humane Treatment), or 90.07 (Habitual Offender), he shall have discretion as to whether to require microchipping or sterlization under the terms set forth in Section 90.10.

(d) If the Animal Control Officer issues a notice of ordinance violation, the notice must state the name of the person accused of a violation, the nature of the violation, the date of the violation, the section of this Chapter that has been violated, the fine imposed for the violation, and any other information pertinent to the violation and necessary for an understanding of the circumstances surrounding the violation. The Animal Control Officer must provide a copy of the notice of ordinance violation to the Clerk and to the County Attorney. If the amount of the fine is less than two hundred and fifty dollars ($250), the notice shall advise the person that the fine for the violation may be paid through the Clerk of Tippecanoe County. The notice shall notify the person of the time and date of a court hearing at which the person must appear if he or she wishes

to challenge the notice of violation or if the amount of the fine is over two-hundred and fifty ($250) dollars, in which case, a court appearance is mandatory.

(e) If a person is aggrieved by the decision of the Animal Control Officer under this Chapter, the person may appeal the decision to a court of plenary jurisdiction sitting in Tippecanoe County Indiana within thirty (30) days of the decision. This does not extend the times set forth in section 90.09 with respect to the disposition of an impounded animal.

(f) In addition to any other remedy available under this Chapter, the County or the Animal Control Officer may seek injunctive relief from a court of competent jurisdiction to correct an ongoing violation under this Chapter. Such injunctive relief may include, without limitation, restriction or prohibition of the violator's ability to possess or own animals in Tippecanoe County. The Animal Control Officer or any law enforcement officer may take such immediate action as is reasonably necessary to prevent the death or serious bodily injury to an animal or the public.

(g) An Owner shall be responsible for such reasonable fees and expenses as are made necessary by the Owner's failure to comply with this Chapter including, without limitation, impoundment and boarding fees, attorney's fees, and damages and fees incurred in addressing a threat of death or serious bodily injury.

(h) The Animal Control Officer shall maintain a Hazardous Animal List. The presence of an animal on this list shall constitute *prima facie* evidence that the animal is "hazardous" within the meaning of this Chapter 90. An animal may still be "hazardous" within the meaning of section 90.01(i) even if the animal is not present on the Hazardous Animal List. The Animal Control Officer shall place an animal on the Hazardous Animal List if:

(1) The animal, without provocation, bites a child.

(2) The animal causes death or serious injury to a person or domesticated animal.

The Animal Control Officer shall have the discretion to add other animals to the list if the Animal Control Officer has reason to believe the animal is one with a propensity to attack, bite, or injure humans or domesticated animals without adequate provocation.

90.12 PENALTY

(a) The following fines apply to violations of this chapter:

Offense	Fine
Inoculation violation (90.04)	$200
Improper or absent restraint (90.05(a))	$200
Nuisance violation (90.03(a)(11))	$200
Failure to confine animal in heat (90.05(b)).	$200
Improper confinement of *Hazardous Animal* (90.05(c))	$200
Failure to provide adequate food, potable water, and shelter (90.06(a))	$200

Animal cruelty (90.06(b),(c))	Up to $2,500
Abandonment of animal (90.03(a)(10))	$200
Failure to stop, assist, or report after injuring or killing animal with motor vehicle (90.06(d))	$200
Exposing domestic animal to poison (90.06(e))	$200
Failure to reclaim impounded animal (90.09(f))	$200
Failing to microchip (90.10(a))	$200
Habitual offender	Up to $2,500
Refusing to agree to sterilize (90.10(d))	$250
Failure to comply with an agreement to sterilize (90.10(e))	$2,500
All other violations of this Chapter not otherwise specified	$200

(b) In addition to the fines set forth herein, a violation of this Chapter that results in damages or injury to persons or property may be grounds for compensatory damages for such damage or injury.

90.13 ANIMAL CONTROL FUND

(a) There is hereby created in the office of Auditor of Tippecanoe County a separate fund to be known as the Animal Control Fund.

(b) All monies received from fines recovered under Section 90.12(a), redemption fees under Section 90.09, gifts and donations to the Animal Control Fund, shall be deposited into such Fund.

(c) Monies may be expended from such Fund, subject to appropriation by the County Council, only for the purpose of furthering the goals of humane treatment and population control of animals in the county including, without limitation, assisting with spaying, neutering, and microchipping the pet population in the County.

(d) Interest on such Fund shall be deposited to the county general fund.

This Ordinance shall be in full force and effect upon its passage and signing and publication as required by law.

90.14 FERAL CAT COLONIES

The Animal Control Officer shall administer a cat colony program to encourage the spay and neutering of feral and abandoned cats.

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on first reading this 2nd day of December, 2019, by the following vote:

BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

Yes — David S. Byers, President

Yes — Tracy A. Brown, Vice President

Yes — Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga, Auditor of Tippecanoe County

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on second reading this 6th day of January, 2019/20, by the following vote:

BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

Yes — David S. Byers, President

Yes

Tracy A. Brown, Vice President

Yes

Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga, Auditor of Tippecanoe County