

AGENDA

Wednesday, May 6, 2015

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

April 20, 2015

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2015-19 Use Variance to allow for a Daycare Center/Pre-School/Community Center - 1026 Dodge Avenue

Petition No. 2015-13 Amend the S-2 PUD to construct two (2) Multi-tenant Buildings - 512 W. Cleveland Road

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**
- 8. Resolutions**
- 9. Ordinances on Second Reading**

P.O. NO. 2015-08 Animal Control Ordinance (Assigned to Public Health and Safety Committee)
(Amendment Required)

- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**
- 12. New Business**
- 13. Adjournment**

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
April 20, 2015

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday April 20, 2015, at 7:00 p.m. The meeting was called to order by Council President Emmons and all were asked to stand for the Pledge of Allegiance.

Roll Call.

Present: Mr. Banicki, Ms. Voelker, Mr. Roggeman, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Emmons. **Absent/Excused:** Mr. Reisdorf, Mr. Compton.

The minutes from the April 20, 2015 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals regarding their recommendations from there, April 14, 2015 Public Hearing.

APPEAL NO. 2015-16 An appeal submitted by Relaxation Investments LLC requesting a Use Variance at 5201 North Main Street to allow a multi-tenant building with a drive-thru use. 4 to 0 Recommended Approval

1. Parking shall be provided at a minimum of five (5) spaces per 1,000 square feet of building area.
2. Uses shall be limited to those identified in the C-1 General Commercial Zoning District.
3. Signage shall be limited to one (1) monument for the entire complex as identified in the Main Street Signage Overlay.
4. Current stormwater management standards and grease-traps shall be implemented per City of Mishawaka Department. Improvements to right-of-way and access drives, such as turn lanes, etc...shall be implemented as determined by the City of Mishawaka Engineering Department.

The following proposed ordinances were given first reading, and assigned to committee, to be set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2015-08

**AN ORDINANCE AMENDING CHAPTER 91 OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA,
REGARDING ANIMAL CONTROL**

(Animal Control Ordinance)
Assigned to Public Health and Safety committee

Clerk Block read **Resolution No. R2015-15** opening it for public hearing.

RESOLUTION NO. R2015-15

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, DECLARING A CERTAIN AREA IN THE CITY OF MISHAWAKA, INDIANA TO BE AN ECONOMIC REVITALIZATION AREA

WellPet L.L.C. Confirming Resolution

Ken Prince, City Planner said he was speaking on behalf of the administration in support of this Confirming Resolution for tax abatement for WellPet LLC. He said what WellPet was looking to do was spend 1.8 million dollars approximately on a high speed packaging line which would add an additional 4 new employees and would be retaining their existing 115 employees. Mr. Prince said over the past five years WellPet has invested significantly into the facility and grown in employment as well. He said as far as the tax abatement goes on a 1.8 million dollar investment, as calculated they estimate the taxes abated over the five years standard abatement would be \$101,328 dollars and the taxes paid during that time would be \$67,552, the estimated annual taxes associated with this investment was \$33,776.00.

Ms. Tatgenhorst, Controller at WellPet 1121 West 11th street, Mishawaka said she was asking for a favorable vote on this resolution designating their location as an economic revitalization area that provides a 5 year tax abate. She said under this designation they would install a 1.8 million dollar high speed line which would allow them to add capacity to their manufacturing facility. She said at WellPet they are committed to strengthening the community and they have invested more than 23 million dollars in the last five years. Ms. Tatgenhorst said they have not only increased their capacity but also tripled the number of employees and this year has hit the 115 mark from 35 employees. She went on to say in addition they were dedicated in helping to support the environment and increasing sustainability by reducing their solid waste, recycling and reusing. Ms. Tatgenhorst said in return for this investment they would commit to retaining their current employees and adding an additional 4 employees.

Mr. Bellovich asked if the 115 employees were full time. Ms. Tatgenhorst stated they were. Mr. Bellovich asked roughly what the hourly rate was. Ms. Tatgenhorst said she believed for unskilled labor positions the hourly rate was \$14.25; and for skilled labor \$21.45.

Mr. Emmons thanked Mr. Doug Mitchell from WellPet for coming to the monthly meeting at St. Bavo and explaining to the people in the neighborhood how WellPet was trying to curtail the smell emitted from their plant. He said WellPet had consultants come in and were told by them they needed to raise the smoke stacks to 100 feet and they are presently at 35 feet, with the cost being between 150 to 200 thousand dollars to remedy that situation. Mr. Emmons stated they were willing to do that and he was hoping with the money they were saving on the abatement they could find their way clear to get it done as soon as possible. He stated WellPet has been a good.

Mr. Mitchell said absolutely they would get that done they were committed to the neighborhood and supporting them. He said he has talked with his Planning Department to reschedule some of the runs during the week like the residents have asked for. Mr. Emmons said that would be greatly appreciated.

Brian Fry 522 Alabama Street said there were times last summer called Code Enforcement and talked with Mr. Obren and told him they cannot go outside the smell is so bad. He said he realized the factory was there when he moved in but it seems like the smell is getting worse in the last 10 years. Mr. Fry said he was not against the tax abatement the more jobs the better for Mishawaka; it was the clean air he was concerned about.

Mr. Emmons said he was hoping that raising the smoke stacks would alleviate the problem, WellPet has been very co-operative.

Mr. Mammolenti thanked WellPet for their investment in the city.

Question was called for at 7:17 p.m. on **RESOLUTION NO. 2015-15** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7). **Yes:** Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Roggeman, Ms. Voelker.

Clerk Block read **Resolution No. R2015-16** opening it for public hearing.

RESOLUTION NO. R2015-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

South of 5209 North Main Street, Mishawaka, Indiana
(Use Variance to allow a Multi-Tenant building with a Drive-Thru
Use- S of 5209 N. Main Street)

Jeffery Ballard, Danch Harner, 1643 Commerce Drive South Bend said he was representing Relaxation Investments, LLC as they request a Land Use Variance for the property located just South of 5209 N. Main Street just north and adjacent to the Meijer access road from Main Street. He said this request comes to the Council with a favorable recommendation from the Mishawaka Board of Zoning Association. Mr. Ballard said the owners of that property have been approached by an interested party who desires to acquire the property and develop a multi-tenant building on site which would contain a Pot Belly Sandwich Shop with a drive- thru, Qdoba Mexican Grill without a drive thru, and two small retail tenants. He said access would be off of Main Street as well as an existing drive way along the south property line which also services the Meijer Facility from Main Street.

Mr. Ballard stated based on discussion from the City's planning staff a multi-tenant building which includes more than two tenants requires a CT Commercial District Classification, a C-2 Zoning also carries with it extensive set back requirements for buildings, parking and pavements

a minimum acreage limit and limitations on building coverage. He said the proposed restaurant with the drive-thru requires a C-7 Commercial District Classification so it would require a split zoning. Mr. Ballard said thru that discussion it was determined that in order to allow for the proposed commercial development the best procedure would be to request an approval of a split zoning

Ms. Voelker asked about the set back where one foot was requested was that not going to be the case here. Mr. Ballard stated that was a separate request, variances for parking encroaching into a side yard setback that was taken care of through redesigning the site.

Question was called for at 7:22 p.m. on **RESOLUTION NO. 2015-16** the  Vote: Motion carried by a unanimous roll call vote (summary: Yes = 7). Yes: Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Roggeman, Ms. Voelker.

Clerk Block read **RESOLUTION NO. R2015-17** opening it for public hearing.

RESOLUTION NO. R2015-17

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS (2014 Tax Abatement Compliance Reports)

- **BD SMRMC Mishawaka Development, LLC**
- **Jamil Packaging Corporation**
- **NAX North American Composites**
- **Long Term Care Investments V, LLC**
- **Barak River Rock, LLC**
- **WellPet, LLC, Regrind System 2014**

Ken Prince, City Planner said he was speaking on be-half of the Compliance Reports for 2014 essentially everyone was in compliance, it was a sign of the times where there has been a turn in the economy. He said speaking for the hospital, starting their construction in 2008 this was the first year they have exceeded what they projected at the time it was constructed and are also now 28 positions above where they thought they would be at this time, with that being one of the most significant elements.

Mr. Prince said there were two out of the 6 that were currently under construction Barak River Rock, and Long Term Care Investments V on Fir Road. He explained that the fact they have started construction are all good signs as to why that tax abatement was necessary.

Mr. Mammolenti said when North American Composites one of the questions the Council had for them was “were they going to be doing any packaging at their facility” and their answer was no. He said a couple of times he has driven by and he has seen a bulk tanker pulled into their dock, which makes him believe they are either filling indoor bulk storage tanks or drumming off material. Mr. Prince said he would Contact them and ask that question.

Mr. Roggeman thanked Mr. Prince for his report, tax abatement is one of the issues, but you can see by the information provided here that the six that the City of Mishawaka has, have been working very well. He said every one of them except the two that are currently in the process of building have well exceeded the number of employees they projected, as well as the salary levels not to mention the taxes everyone receives from the property tax we would not have received without tax abatements for these companies. Mr. Roggeman said he commends Mr. Prince and his office for the work they do.

Question was called for at 7:28 p.m. on **RESOLUTION NO. 2015-17** the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7). **Yes:** Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Roggeman, Ms. Voelker.

PRIVILEGE OF THE FLOOR

Denny Correll, 3834 Dudley Drive, Mishawaka said Good Will, Salvation Army, St. Vincent DePaul, and churches, all return donate items from the local residents back into this community. He went on to say they provide jobs, and training, that the community benefits from. Mr. Correll said non accepted items such as mattresses; furniture etc. that gets left out in the elements would only open the opportunity for rodents, bed bugs and vermin to find a home. He said companies that will not provide for the city and its residents need to be discouraged.

UNFINISHED BUSINESS

Clerk Block read **PROPOSED ORDINANCE NO. 2015-05** opening it for public hearing.

PROPOSED ORDINANCE NO. 2015-05

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY MISHAWAKA, INDIANA

(Amend PUD for Signage – Northwest corner of Jefferson Blvd. and Byrkit Ave)

Mr. Banicki reported the Land Use Plan Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Roggeman the motion carried.

Michael Peters, District Sales Rep for National Oil 409 North Main Street, Bluffton, Indiana requesting a variance for a monument sign that would combine the shopping center sign Highland Market Place with their signage consisting of a Marathon Logo, two price panels a Subway sign, and another food offering.

Question was called for at 7:35 p.m. on **PROPOSED ORDINANCE NO. 2015-05** the  **Vote: Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7). **Yes:** Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Roggeman, Ms. Voelker.

Clerk Block read **RESOLUTION NO. R2015-13** opening it for public hearing.

RESOLUTION NO. R2015-13

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA
BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:**

1231 Lincolnway West and Logan Street Mishawaka, Indiana

(Amend PUD for Signage – Northwest corner of Jefferson Boulevard and Byrkit Avenue)

Mr. Banicki informed Mr. Emmons while he was gone they had the public hearing on this at the last meeting while he was on vacation. Mr. Emmons said he would open the meeting to the petitioners if they wanted to address the Council.

Brian Hinterleiter, Operations Manager for Planet Aid 7025 Metroplex Drive, Romulus, MI. thanked the Council for listening to them they just want to come in and do a good thing, bring an opportunity to Mishawaka and hire a couple of employees.

Mr. Banicki appreciated them meeting with him and Mr. Emmons while he thinks it was a good philosophy there are a lot of concerns based on the fact that this was the first unit of its type in the United States, asking him if that was correct. Mr. Hinterleiter stated that was correct. Mr. Banicki said some of the concerns expressed to him were negative and nothing positive. He said it was his feeling if they were going to test something like this in our area they probably shouldn't test it on Main Street. Mr. Banicki stated with the amount of money that has been spent on the River Walk and in the downtown area. He said even though it was a great location getting in and out was tough and he was just not sure they were willing to take the risk of it not working out.

Question was called for at 7:40 p.m. on **RESOLUTION NO. R2015-13** the **Vote:**
Motion carried by unanimous roll call vote. **Vote:** Motion failed (**summary: No = 7,**)
NO: Mr. Bellovich, Mr. Bilancio, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Roggeman, Ms. Voelker. **FAILED**

Deborah S. Block,
Deborah S. Block, City Clerk IAMC, MMC

Woody Emmons
Woody Emmons, President
Presiding Officer

DATE: April 17, 2015

RECEIVED
DEBORAH S. BLOCK, MMC

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

APR 30 2015

CITY CLERK
MISHAWAKA, IN

The undersigned appellant respectfully shows the Board:

1. I, **Vanessa Jackson**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit: 1026 Dodge Avenue Mishawaka, In 46544. The Salvation Army has agreed for me to speak on behalf of the property.

* The legal description of the property is Lots 3 4 5 6 7 8 and 9 Towles's 1st Addition, Block 9a.

2. The above-described real estate presently has a zoning classification of R2 District under the Zoning Ordinance of the City of Mishawaka.

3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner:

Daycare Center/Pre-School/ Community Center

Young Minds Development Center (YMDC) aims to prepare its students to excel as young leaders of tomorrow by implementing a curriculum tailored specifically for children. We pride ourselves in first class preschool and childcare services. Our center will host a daycare, preschool, and before and after school care. These services will be utilized for kids between the ages 2 ½ to 12 year olds. Along with our preschool and childcare services, we will be offering several programs that include; mentoring, parenting classes, support groups, writing and reading workshops. Our mission is to bring education and its resources into a developing community so that it may flourish. We believe that there is a need for some educational and developmental support in the area.

Vanessa Jackson will be the Director of Young Minds Development Center. Her advanced degree in Education has led her to become the driving force behind designing a program that enhances student learning and community development. She will be supported in daily operations by her support staff whom are dedicated to educating our future leaders.

AP 15-19

YMDC understands that the typical American family now requires dual or supplemental incomes. The trend has created a need for quality child care services as well as the other programs in which we will offer. Our center will offer competitive prices, high-quality child care services, and leading-edge educational programs with trained instructors. We are committed to maintaining an excellent reputation with parents and the community we serve.

4. Appellant desires to *(Explain what is proposed that violates the Ordinance.)*

- *We would like to start a daycare, preschool and community center. The Salvation Army was previously leasing the building to a church. The church was used as a outsource to the community as well. They held community picnics and social gatherings for the surrounding neighborhoods. Young Minds Development center would like to do some of the same things. In addition to the daycare/preschool, we would like to become more involved and bring more resources to the area. Some of these additions were mentioned above. We will be hosting and holding health and wellness seminar ,job training and resume building support. Young Minds Development Center will provide community picnics, education classes, sports, and language acquisition classes.*

5. The Zoning Ordinance of the City of Mishawaka requires *(Explain ordinance requirements and note Section Number of the Ordinance.)*

• **Sec. 137-300. - Intent.**

The purpose of this general commercial district is to provide convenient retail and service establishments for the day-to-day needs of a large area with minimum impact on surrounding residential areas. This district is designed to provide for freestanding commercial uses which require limited comparison shopping. Customers usually arrive by automobile, making a separate stop for each errand.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.

- Yes, the property was not built as residential and /or has a history of being used for other things that are not residential.

7. Answer the following necessary questions for a **USE VARIANCE**:

(1) Will approval be injurious to the public health, safety, morals or general welfare of the community? *YES OR NO and explain your reason why.*

- *No, we believe that the community would flourish from having more resources. They would be able to have an affordable daycare center for their children. We believe that the community would accept the help and resources with open arms. The community would benefit from our services.*

(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *YES OR NO and explain your reason why?*

- *No, the area that is adjacent to the property will not be affected because we have our own parking lot and enough space where the other area will not be affected nor disturbed.*

(3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*

- *Due to the buildings placement in a residential area, from my understanding the concern is the amount of parking and interference with the community. The property has plenty of parking and space for the learning center. The community will not be affecting negatively. The impact of the community center will be positive. There will be resources available to the neighboring residents.*

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *YES OR NO and explain your reason why.*

- *No, due to the nature of the Day Care Center, the positive affect will not create unnecessary hardships to the community. We believe that this will create positive effects on the neighboring residents.*

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?
YES OR NO and explain your reason why.

*No, the approval will not interfere with the Mishawaka 2000
Comprehensive Plan.*

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal
and that after such hearing, the Board grant the requested variance.

Vanessa Jackson

Print Name Here

CONTACT PERSON:

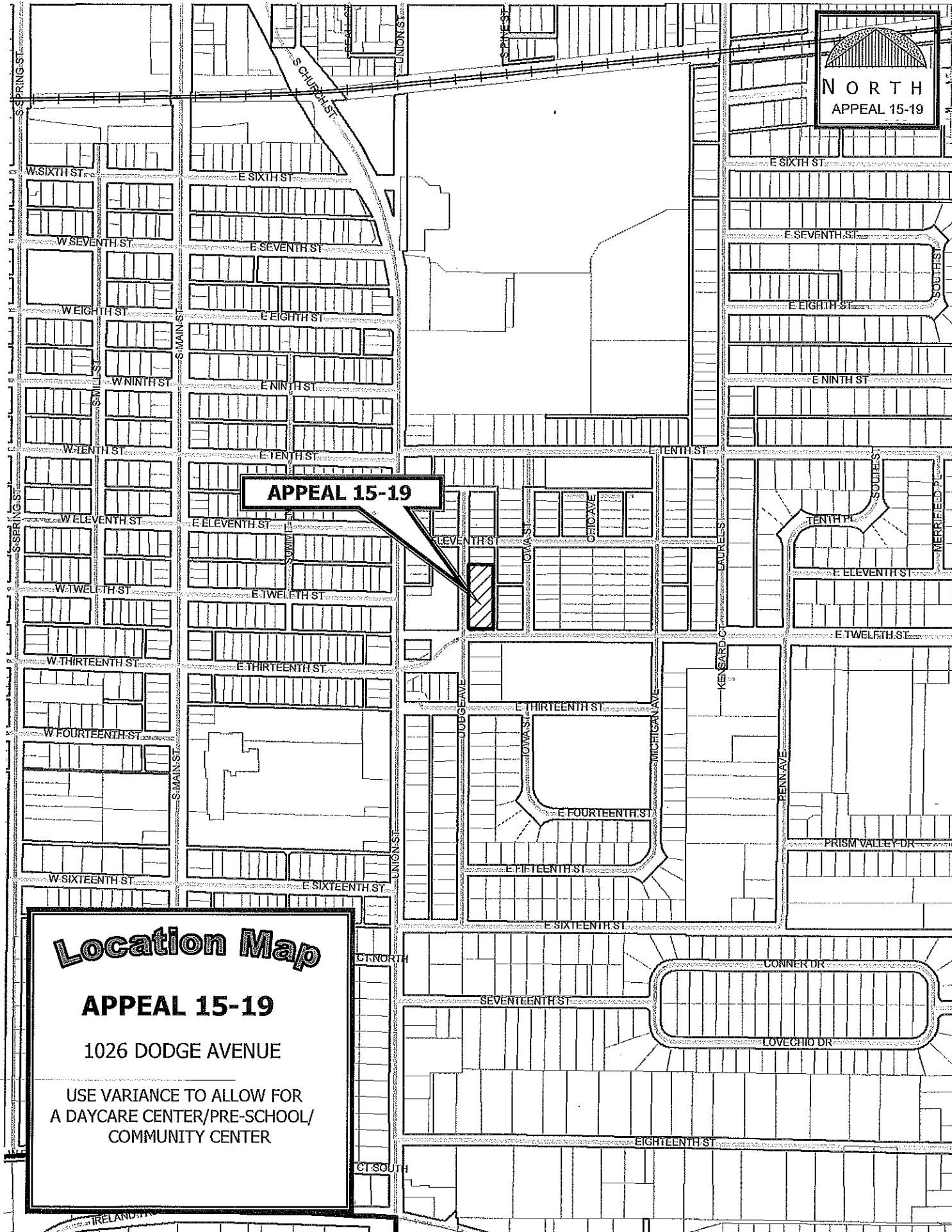
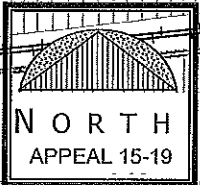
Name: Vanessa Jackson

Address: 1026 Dodge Avenue, Mishawaka In 46544

Day Phone Number: 574-386-7550

Fax Number: 574-542-9214

Email: youngmindsindevelopment@gmail.com



APPEAL 15-19

Location Map

APPEAL 15-19

1026 DODGE AVENUE

USE VARIANCE TO ALLOW FOR
A DAYCARE CENTER/PRE-SCHOOL/
COMMUNITY CENTER

APR 30 2015

Date: April 9, 2015

CITY CLERK
MISHAWAKA, IN

To The: Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Sorce USA Realty, Inc. Petition for an Amended PUD:

The undersigned, Wei Zheng, for Sorce USA Realty, Inc., the Petitioners, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, Penn Township, St. Joseph County, Indiana:

A part of the Southwest Quarter of Section 21, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, St. Joseph County, Indiana which is described as: Commencing at a point on the South line of said Southwest Quarter a distance of 327.00 feet west of the Southeast corner thereof: thence N. 89°-44'-40" W. along said South line and Centerline of Cleveland Road a distance of 281.25 feet more or less; thence N. 00°-10'-32" E. a distance of 389.00 feet more or less; thence S. 89°-44'-40" E. a distance of 280.06 feet more or less; thence S. 00°-00'-00" W. a distance of 389.00 feet more or less to the point of beginning, Excepting therefrom the South 40 feet thereof for highway purposes.

Containing 2.25 acres more or less.

Subject to all legal highways, easements and restrictions of record.

Also commonly known as 512 West Cleveland Road, Granger, Indiana 46530.

The above described parcel of land is presently zoned "S-2" Planned Unit Development District under the City of Mishawaka zoning development codes.

The Petitioners desire to amend the existing Planned Unit Development for said real estate, to be allowed to construct two (2) multi-tenant buildings containing a variety of retail uses, office uses and small restaurant shops. The guidelines for the proposed development are shown on the attached preliminary site plan.

Wherefore, the Petitioners prays and respectfully request that the Common Council of the City of Mishawaka refer this matter to the

Per 15-13

Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted the rezoning the above described parcel of real estate located in the City of Mishawaka, Indiana.

Contact person:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
(574) 234-4003 mdanch@danchharner.com



Wei Zheng
for Sorce USA Realty, Inc.
512 West Cleveland Road
Granger, Indiana 46530
(574) 303-8636

Property Owners
Within 300 Feet

Michiana Developers LTD
PO Box 73
LaPorte, IN. 46350
Tax Key # 002 2018 037412

Loyd & Christine Weldy
16657 Cleveland Rd
Granger, IN. 46530
Tax Key # 002 2017 036307

Loyd & Christine Weldy
16657 Cleveland Rd
Granger, IN. 46530
Tax Key # 002 2017 036308

Carl & Ardena Barbieri
16675 Cleveland Rd
Granger, IN. 46530
Tax Key # 002 2017 036309

Baugo Creek Realty LLC
3501 E Edison Rd
South Bend, IN. 46615
Tax Key # 029 1003 0202

University Park Mall
PO Box 6120
Indianapolis, IN. 46206
Tax Key # 029 1002 0100

1st Source Bank
PO Box 1602
South Bend, IN. 46634
Tax Key # 029 1002 010001

Cole HC Mishawaka IN LLC
9701 W Higgins Rd
Ste. 270
Rosemont, IL. 60018
Tax Key # 029 1002 0102

St. Joseph Bank & Trust Co
PO Box 560807
Dallas, TX. 75356
Tax Key # 029 1002 0101

Indiana Keller Building LLC
814 Port Street
Saint Joseph, MI. 49085
Tax Key # 002 2018 037416

Indiana Keller Building LLC
814 Port Street
Saint Joseph, MI. 49085
Tax Key # 002 2018 037416

Mish Federal Savings and Loan Assoc
110 E Charles St
Muncie, IN. 47305
Tax Key # 029 1003 0203

Sorce USA Realty Inc
512 W Cleveland Rd
Granger, IN. 46530
Tax Key # 029 1003 020001

Rodney & Lynn Waters
52930 Timberland Dr
Granger, IN. 46530
Tax Key # 002 2017 036317

Richard Kirk Smith
52900 Timberland Dr
Granger, IN. 46530
Tax Key # 002 2017 036316

Grape Road BMC Partners LP
227 S Main St
Ste.300
South Bend, IN. 46601
Tax Key # 029 1003 0200

Triple J LLC
2351 Filbert Road
Mishawaka, IN. 46545
Tax Key # 029 1003 020002

To The: Honorable Members of the
Common Council of the
City of Mishawaka, Indiana

April 9, 2015

RE: Sorce USA Realty, Inc.
Amended PUD Request:

Dear Council Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Amended PUD Request will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 574-303-8636.

Sincerely,



Wei Zheng
for Sorce USA Realty, Inc.
512 West Cleveland Road
Granger, Indiana 46530

File No. 150147 "C" Md.

APR 22 2015

Pet 15-13

A site location map showing the project area. The map includes a north arrow, a scale bar, and labels for 'SITE' and 'COLORADO RIVER'. The project area is indicated by a shaded region.

[illegible][illegible]

Ted Kay 605 1002 9160
 24 Avenue Park & Third St
 Box 26, 22207
 Tulsa, OK 74106
 Ted Kay's 605 1002 9171

 Alan Fernald Gardiga and Luan A
 111 E. Okemun St
 Abilene, TX 79605
 Ted Kay's 605 1003 0013

 Robert C. Smith
 22003 Timberlake Dr
 Houston, TX 48155
 Ted Kay's 702 277 222115

[illegible][illegible]

CHARTERED ACCOUNTANTS, INC.

APR 22 2015

2015-15-13

DATE	DEBIT
4/22/15	JTB
4/22/15	CHICKEN

REVISION: _____



DHA
Land Surveyors • Planners
Landscape Architects

[illegible]

Associates, Inc.
Civil Engineers
Land Planners

1st Reading 4-20-15
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2015-08

ORDINANCE NO. _____

AS AMENDED

**AN ORDINANCE AMENDING CHAPTER 14 OF THE MUNICIPAL CODE OF
THE CITY OF MISHAWAKA, INDIANA, REGARDING ANIMAL CONTROL**

WHEREAS, the Common Council for the City of Mishawaka recognizes that the control of domestic and wild animals within the City is in the best interest of the animals and the citizens of Mishawaka;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, THAT:

Section 1. Chapter 14: Animals, is hereby deleted in its entirety and replaced with the language attached hereto as Exhibit A.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this 6th day of May, 2015, at _____ o'clock _____.M.

Dale "Woody" Emmons
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC
City Clerk

PRESENTED by me to the Mayor this _____ day of May, 2015, at
_____ o'clock _____.M.

Deborah S. Block, IAMC, MMC
City Clerk

APPROVED by me this _____ day of May, 2015, at _____ o'clock _____.M.

David A. Wood
Mayor

EXHIBIT A

attach this one with new po 2015-08

Sec. 14-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to deposit, leave, drop-off or otherwise dispose of any live animal on public or private property without providing the requisite care prescribed under this chapter.

A.D.B.A. means the American Dog Breeders Association.

Agent means any person 18 years or older who is authorized by the animal's owner to act on such owner's behalf.

A.K.C. means the American Kennel Club.

Altered animal means any animal that has been operated on to prevent it from procreating.

Animal means any live, nonhuman, vertebrate, or invertebrate creature that is domestic, wild, or exotic.

Animal control agency means any governmental or private entity charged with or contracted with and given authority for the enforcement of the provisions of this chapter for and on behalf of the city.

Animal control commission means the governing board established by this chapter.

Animal control officer means a person authorized to carry out the provisions of this chapter.

Animal performances or exhibitions means any spectacle, performance, display, act, exhibition, or event in which animals are used.

Animal shelter means a facility or vehicle operated by a governmental or private entity for the purpose of providing or promoting animal welfare and the humane treatment of animals.

At large means an animal that is:

- (1) Not on a leash and is off the property of its owner, its owner's agent, or its keeper;
- (2) On a leash that does not adequately confine the animal to the property of its owner, its owner's agent, or its keeper; or
- (3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

Restrictions pertaining to at large animals shall not apply to free-roaming cats.

Attack dog means any dog that is trained to attack upon command or those that do attack or have attacked another animal or human being. This definition excludes K-9 dog corps in use by law enforcement agencies.

Auction means any place or facility where animals are regularly bought, sold, or traded by any means, except for those facilities otherwise defined in this chapter as animal shelters. This definition shall also include the groups that sponsor such events.

Bite means to seize, tear, wound, or cut with the teeth, resulting in a break in the skin.

Breeder means any person or for-profit business or corporation which harbors or keeps any animals, and allows or causes those animals to procreate, for the purpose of selling the offspring.

Cattery means any person engaged in keeping more than three unaltered cats.

Circus means any performances, which are given for a fee, by traveling companies on vacant lots, using tents, or some other kind of temporary enclosure, for sheltering the public. Circuses are also subject to the licensing provisions set forth in this chapter.

Controlled animal means any animal not defined as a domestic animal, with the exception of small, nonpoisonous aquatic or amphibious animals, nonpoisonous reptilian animals, small cage birds, and

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psittacine, and whose possession requires a valid city controlled animal permit. The term "controlled animal" shall include, but not be limited to, the following:

- (1) All poisonous animals, including rear-fang snakes.
- (2) Apes: chimpanzees (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);
- (3) Baboons (*Papio*, *Mandrillus*);
- (4) Bears (*Ursidae*);
- (5) Bison (*Bison*);
- (6) Cheetahs (*Acinonyx jubatus*);
- (7) Crocodilians (*Crocodylia*);
- (8) Constrictor snakes, such as boa, python, and anaconda;
- (9) Coyotes (*Canis latrans*);
- (10) Deer (*Cervidae*), including all members of the deer family, such as white-tailed deer, elk, antelope, and moose;
- (11) Elephants (*Elephas* and *Loxodonta*);
- (12) Game cocks and other fighting birds;
- (13) Hippopotami (*Hippopotamidae*);
- (14) Hyenas (*Hyaenidae*);
- (15) Jaguars (*Panthera onca*);
- (16) Leopards (*Panthera pardus*);
- (17) Lions (*Panthera leo*);
- (18) Lynxes (*Lynx*);
- (19) Monkeys;
- (20) Ostriches (*Struthio*);
- (21) Piranha fish (*Characidae*);
- (22) Pumas (*Felis concolor*), also known as cougars, mountain lions, and panthers;
- (23) Rhinoceroses (*Rhinocerotidae*);
- (24) Sharks (class *Chondrichthyes*);
- (25) Snow leopards (*Panthera uncia*);
- (26) Spiders and insects which are poisonous;
- (27) Tigers (*Panthera tigris*);
- (28) Walking Catfish; or
- (29) Wolves (*Canis lupus*).

Criminal trespass shall have the meaning set forth in IC 35-43-2-2.

Dangerous animal means:

- (1) Any animal which:
 - a. Has attacked or bitten another animal while off the property of its owner, its owner's agent, or its keeper;

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- b. Has attacked, attempted to attack, bitten, or seriously injured any human being, without provocation, whether on or off the property of its owner, its owner's agent, or its keeper;
 - c. Has a history, documented with a public agency or its designee, of attacking or biting any humans or domestic animals;
 - d. Has a known propensity, tendency, or disposition to attack, to cause injury, or to otherwise threaten or endanger the safety of humans or domestic animals;
 - e. Has been found to be at large and has been documented to be at large by an animal control officer on three or more separate occasions in a 12-month period and has at any time been documented to show aggressive behavior; or
- (2) No animal shall be considered a dangerous animal if the animal causes injury or damage to a person while that person is:
- a. Committing or attempting to commit a criminal offense against the owner or agent of the owner;
 - b. Committing a criminal trespass upon the premises occupied by the owner, agent, or keeper of the animal; or
 - c. Teasing, tormenting, abusing, or assaulting the animal.
- (3) No K-9 patrol dogs or police dogs owned or kept by a law enforcement agency shall be considered a dangerous animal when used in the line of duty or for law enforcement purposes.

Designee means a person, organization, or entity selected, appointed, or nominated for a particular purpose or duty.

Domestic animal means any animal that is a member of one of the following species:

- (1) Dog (*Canis familiaris*);
- (2) Cat (*Felis cattus* or *Felis domesticus*);
- (3) Cattle (*Bos domesticus*, *Bos taurus*, or *Bos indicus*);
- (4) Horse (*Equus caballus*);
- (5) Donkey (*Equus asinus*);
- (6) Sheep (*Ovis aries*);
- (7) Goat (*Capra hircus*);
- (8) Rabbit (*Oryctolagus cuniculus*);
- (9) Mouse (*Mus musculus*);
- (10) Rat (*Rattus*);
- (11) Guinea pig (*Cavis procellus*);
- (12) Hamster (*Mesocricetus auratus*);
- (13) Gerbil (*Gerbillus*);
- (14) Cow or ox (*Bovine*);
- (15) Pigeon, homing, or racing;
- (16) Chicken, turkey, goose, duck;
- (17) Swine;
- (18) Chinchillas;
- (19) Mink;

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- (20) Ferrets;
- (21) Bisons;
- (22) Llamas; and
- (23) All other animals defined in IC 15-2.1-2-15

Eartipping means the removal of the distal one-quarter of a cat's left ear to indicate the cat has been spayed or neutered and vaccinated as part of a trap-neuter-return program for feral cats.

Escape-proof enclosure means a facility secured by latch, lock, or bolt and is an enclosure or kennel, fully contained by wire (minimum of 11-gauge), six-sided (including the top), of which one can be a concrete or brick floor, and that an animal cannot escape from without opening a lock or bolt.

Exotic animal means any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii. This definition does not include fish, furbearing animals commercially bred for the furrier trade, and birds protected under federal laws and regulations.

Exposed to rabies means any human or nonhuman, warm-blooded mammal that has been bitten or exposed to any other animal known or reasonably suspected to have been infected with rabies.

Exterminator means any person or company who receives payment for the removal of nuisance animals from commercial or private property.

Fight means a conflict between two or more animals that is intentionally organized for such purpose.

Foster animal means any animal that is being harbored for the purposes of permanent adoption placement. All individuals with foster animals in the city must work with an established agency and adhere to the provisions of this chapter.

Fowl means any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots, or similar types of birds normally kept in cages.

Free-roaming cat means any unowned, outdoor cat.

Harboring means the actions of any person that permit an animal habitually to remain, to be lodged or to be fed within one's home, store, enclosure, yard, or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days or more.

Health care provider means any clinic, physician, veterinarian, nurse, E.M.T., paramedic, first responder, hospital, emergency room, urgent care clinic, or veterinary clinic or hospital.

Humane officer means any person or agency designated by the state or the city as a person who is qualified to perform the duties required by the law of this city and state regarding animals.

Keeper means any person, other than the owner, who has actual or constructive possession of an animal for the purpose of managing, controlling, or caring for such animal. A person shall be construed as a keeper of an animal even if he does not have the owner's permission.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting, or keeping more than three dogs for the purpose of hire, training for a fee, or selling.

Leash means a cord, chain, rope, strap, or other such physical restraint.

Microchip means a tiny computer chip, implanted underneath the skin of an animal, that contains identification information relating to that animal. For the purposes of this chapter, only standard 125 mhz chips implanted in the universal location for small animals are acceptable.

Muzzle means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal, without interfering with its vision or respiration or causing injury to the animal, to prevent the animal from biting any person or other animal.

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Nip or scratch means to pinch or squeeze with the teeth or claws, not necessarily breaking the skin or damaging any tissue.

Not-for-profit means a business, association, or entity established or organized as a not-for-profit corporation under state law or recognized as not for profit by the Internal Revenue Service or the state department of revenue. The term "for-profit" means all other types of businesses, associations, or entities.

Off property means beyond the legal boundaries of the real property on which the owner, agent, or keeper resides.

Owner means any person 18 years of age or older having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to any animal covered by this chapter.

Performing animal exhibition means any spectacle, display, act, exhibit or event other than a circus, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Pet shop means any person, group of persons, partnership, or corporation, whether operated separately or in connection with another business enterprise, which sells or barter animals.

Police dogs or K-9 patrol dogs means professionally trained dogs used by public safety officers for law enforcement or investigative purposes and activities.

Provoked means to deliberately arouse, incite, or excite.

Public nuisance animal means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal found running at large;
- (2) Any animal, whether or not on the property of its owner, that without provocation molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (3) Any animal that chases or interferes with motor vehicles in a public right-of-way;
- (4) Any animal that attacks other animals;
- (5) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;
- (6) Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (7) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (8) Any animal in heat that is not confined or restrained so as to prevent attraction or contact with other animals;
- (9) Any animal in any section of a public park, playground, school yard, or other recreational area that is found running at large;
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (11) Any animal that trespasses on the private property of persons other than the owner of the animal; or

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(12) Any animal determined to be a dangerous animal.

Rabies vaccination means an injection, licensed by the U.S.D.A. and approved by the state board of health, given to a dog, cat, or other animal by a licensed veterinarian to prevent the spread of rabies.

Restraint means the securing of an animal by leash or lead, or confining it within the real property limits of its owner or agent.

Riding school or *stable* means any place that provides, for a fee, boarding and/or riding instructions for a horse, pony, donkey, mule, or burro.

Rodeo means a performance featuring bronco riding, steer wrestling, calf roping, greased pig contest, or bull riding.

Serious injury or death means:

- (1) Any bodily injury, which is caused by an animal and is medically documented, that:
 - a. Creates a substantial risk of death;
 - b. Causes serious permanent disfigurement, unconsciousness, or extreme pain; or
 - c. Results in a permanent or protracted loss or impairment of a bodily member or organ.

(2) This definition shall not include any nip from an animal.

Service animal means any animal that is trained to assist a disabled person.

Stray means any animal that is not under restraint and/or upon reasonable inquiry by an animal control officer does not appear to have an owner.

Trap-Neuter-Return means a management technique in which homeless, free-roaming cats are humanely trapped, evaluated and sterilized by a licensed veterinarian, vaccinated against rabies, and then returned to the habitat in which they were found.

U.K.C. means the United Kennel Club.

Unconfined dangerous animal means a dangerous animal which is not securely confined indoors, not under restraint, or not confined in a securely enclosed and locked pen or structure upon the premises of the owner, agent, or keeper of such animal.

Unprovoked means without incitement or stimulation.

U.S.D.A. means the United States Department of Agriculture.

Veterinarian means any person licensed and accredited to practice veterinary medicine in the state.

Wild animal means any animal not a domestic or exotic animal, with the exception of small, nonpoisonous aquatic or amphibious animals and small cage birds, which are normally found in the wild state.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals, which is operated by a person, partnership, corporation, or governmental agency that is established for educational purposes and is properly zoned for such use, and which possesses valid licenses and permits as required under federal or state law.

Sec. 14-2. - General animal care requirements.

Every owner or his agent residing within the corporate limits of the city shall see that each of his animals:

- (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;
- (2) Has sufficient and wholesome food and water, which is proper and nutritional for that species of animal;

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- (3) Lives in a structure, meeting minimum veterinary standards, which will protect that animal from all elements of the weather and will allow that animal to stand, sit, and lie down without restriction, and which is kept in a sanitary manner;
- (4) If ill, diseased, or injured, receives proper veterinary care as necessary to promote the good health of the animal and prevent the transmittal of a disease to other animals or human beings;
- (5) Is not beaten, ill-treated, overloaded, over-worked, tormented, or otherwise abused or neglected, or involved in any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans;
- (6) Is not physically altered in any manner by anyone other than a veterinarian, except for tattooing for identification purposes and grooming;
- (7) Is not abandoned, neglected, or tortured;
- (8) Does not become a public nuisance;
- (9) Does not become a dangerous animal;
- (10) In the case of a dog or cat over the age of three months, is properly vaccinated against rabies by a licensed veterinarian annually, or upon such frequency as may be specified by state law, and such animals shall be licensed as required by this chapter and state law;
- (11) Is properly restrained and not at large;
- (12) During mating season, is kept in a secure enclosure in such a manner that it cannot come into contact with another animal of the same species, except for planned breeding;
- (13) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a situation which will cause or is likely to cause excessive physical injury or suffering.

Sec. 14-3. - Sale of animals as novelties or use as prize prohibited; exceptions.

- (a) Sale of animals as novelties or use as prize prohibited.
 - (1) No person shall display, sell, offer for sale, barter, or give away any animal, reptile, fish, or bird as a novelty or as an advertising device.
 - (2) No rabbit, chick, gosling, duckling, turkey, or other fowl may be dyed or otherwise colored artificially; nor shall any dyed or artificially colored rabbits, chicks, goslings, ducklings, turkeys, or other fowl be sold, offered for sale, displayed, used as barter, or given away.
- (b) This section shall not be construed to prohibit the sale or display of natural chicks, ducklings, goslings, turkeys, or other domestic fowl in proper brooder facilities by hatcheries or stores engaged in the business of selling them to be raised for commercial purposes. Nor shall this section prohibit a pet shop holding a valid permit under this chapter, or a legitimate humane society or animal shelter, from humanely caring for, adopting out, or selling animals as pets.

Sec. 14-4. - Motor vehicle accidents involving animals.

Any person operating a motor vehicle who knowingly hits, runs over, or causes injury to an animal shall immediately notify the police department. Such notice shall include the motorist's name, address, phone number, type of animal hit, and the location of the animal.

Sec. 14-5. - Animals in motor vehicles.

No animal shall be left in a motor vehicle when the conditions in that vehicle would constitute a health hazard to that animal, or when the weather would constitute a health hazard to such animal confined in said motor vehicle; nor shall any person transport any animal in an unenclosed truck bed or open section of any vehicle unless the animal is enclosed in a cage which is securely fastened to the

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vehicle. At the request of a humane officer, a law enforcement officer may act to remedy the hazard by any means, including gaining entry to impound the endangered animal.

Sec. 14-6. - Poisoning of animals.

- (a) No person shall deposit, dispose, or place any poisonous substance on any public or private property within the corporate limits of the city, if a human or domestic animal is reasonably likely to consume or come into contact with such substance.
- (b) A person shall not be liable under subsection (a) of this section for leaving common rat or mouse poisons or insecticides, in any form, on his property if the person exercises reasonable care in restricting a domestic animal's access to such poisons so that only the targeted rodents or insects are exposed to said poisons.

Sec. 14-7. - Trapping of animals restricted.

No person shall trap animals or fowl within the city limits, unless such traps are approved by an animal care facility and used for the control of nuisance animals. This prohibition shall not apply to any trap specifically designed to kill rats, mice, gophers, or moles unless the property owner is unaware of their placement. Persons who believe that this section is being violated shall file their grievance with the animal control commission for review. This section does not apply to City-approved practitioners of Trap-Neuter-Return.

Sec. 14-8. - Maximum number of dogs or cats.

- (a) No person shall keep more than a total of three dogs or cats over the age of six months per household in any residential area zone. These restrictions mean a total of three animals, for example, two dogs and one cat, or two cats and one dog, but in no event shall the total number exceed three of such animals per household.
- (b) This restriction shall not apply to property which is at least one-third of an acre of land (14,520 square feet); however, any person owning more than three of such animals must comply with subsection (c) of this section.
- (c) Persons desiring to have more than three animals who meet the regulation set forth in subsection (b) of this section must have a minimum of 1,000 additional square feet for each additional animal.

Sec. 14-9. - Acreage requirements for certain domestic animals; prohibition of swine.

- (a) Any person desiring to keep any of the following domestic animals or fowl in the city must have a minimum of five contiguous acres of land in the city, upon which the animals would be kept and which acreage must be enclosed by a fence to confine such animals:
 - (1) Cow, ox, cattle, calves, or other livestock;
 - (2) Donkey, ass, burro, or mule;
 - (3) Sheep;
 - (4) Goat, except pygmy goat (see subsection (e) of this section);
 - (5) Chickens, roosters, geese, turkeys, ducks, or other fowl, except racing or homing pigeons;
 - (6) Bees;
 - (7) Horses;
 - (8) Bison;
 - (9) Llamas; or
 - (10) Swine, except potbelly pig (see subsection (b) of this section).

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The maximum number of such animals which may be maintained on such property shall be determined in light of current animal husbandry and veterinary standards.

- (b) In no event shall the shelter and feeding station for any of the animals or fowl designated in subsection (a) of this section be closer than 50 feet from the adjoining property line.
 - (1) Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a hive, stand, or box located or kept within a zoological park, school, or university building for the purpose of study or observation, as long as the public safety is ensured.
 - (2) Bees must be kept in accordance with the following provisions:
 - a. If bee colonies are kept within 50 feet of any exterior boundary of the property on which the hive, stand, or box is located, a barrier shall be erected that will prevent bees from flying through it.
 - b. Fresh, clean watering facilities for bees shall be provided on the said premises.
 - c. The bees and equipment shall be kept in accordance with the provisions of state statutes.
- (c) Any person desiring to raise rabbits or pets or racing or homing pigeons within the city must keep such animals and birds in safe and sanitary conditions so that a public nuisance is not created.
- (d) No person may keep within the city, as presently or hereinafter established, any swine, pig pens, or hog sties. Possession of said items constitutes a public nuisance.
- (e) Potbellied pigs and pygmy goats shall be allowed only on a lot with a minimum of two acres of land for each individual animal, and all other sections of this chapter shall be added hereto.

Sec. 14-10. - Owners or agents responsible for removing animal wastes and dead animals.

- (a) Any owner or his agent taking the owner's dog or cat outside of the owner's real property limits must immediately remove any excrement deposited by the animal on any public or private property, except in the case of a guide dog for a blind person or service dog for a deaf or physically disabled person.
- (b) The owner of any dead animal shall remove and properly dispose of the animal within 24 hours after its death. The real property owner is responsible for removal of any strange animal carcass on his real property.

Sec. 14-11. - Animal bites.

- (a) If any person is a victim of an animal bite, he shall immediately notify the county health department, city police department, or animal control agency of the incident, and provide a description of the animal and an identification, if possible, of the owner. A written report shall be forwarded to the animal control agency. When an animal is determined to have bitten a person, the animal shall be confined in quarantine for a period of not less than ten days.
- (b) If the animal's owner which has bitten a person presents proof of current rabies inoculations, the animal may be left in the charge of the owner, under quarantine, unless, in the judgment of the humane officer or police officer and based upon considerations of public safety, the humane officer determines it should be removed to an animal shelter or veterinary hospital for the period of observation.
- (c) In addition to any other legal obligations prescribed by law, the owner shall pay for all costs incurred in the quarantine and/or impoundment of the animal before such animal will be released. If the owner is unable or unwilling to pay for said costs, the animal may be humanely euthanized, and the owner shall still remain liable to the animal shelter for any costs incurred in said quarantine and/or impoundment.
- (d) If the owner of the quarantined animal cannot be determined, or if the owner does not furnish proof of current rabies inoculation, the animal shall be impounded under the authority and discretion of the

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city animal control agency and confined in the city's animal control facility or an approved animal care facility for a period of observation of not fewer than ten days.

- (e) Animal control officers shall be empowered to enter onto private property for the purpose of impounding animals which are known to have bitten a person and shall obtain legal process to do so if necessary.
- (f) Unless otherwise provided, the city and any of its agents shall comply with the standards set forth in IC 15-2.1-6-1 through IC 15-2.1-6-13, entitled "Rabies."

Sec. 14-12. - Vaccination of dogs, cats and ferrets required.

- (a) No animal owner or his agent shall keep or harbor a dog, cat or ferret over the age of three months unless it has been vaccinated according to the board of animal health requirements by a licensed veterinarian with anti-rabies vaccine. This requirement does not apply to free-roaming cats.
- (b) The owner shall maintain proof of an animal's vaccination so that it can be presented to the city or its agents upon request.
- (c) Failure to comply with the provisions of this section shall subject the owner of said unvaccinated dog, cat or ferret to being issued an ordinance violation citation, subjecting the owner to a fine as set forth in section 14-24

Sec. 14-13. - Interference with humane officer prohibited.

No person shall interfere with or impede a humane officer or any other authorized agent in the performance of his duties as set forth in this chapter.

Sec. 14-14. - Spaying, neutering, and microchipping of adopted animals.

- (a) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be spayed or neutered by a licensed veterinarian within 30 days of adoption if the dog or cat is over three months of age. If the dog or cat is less than three months of age upon adoption, it shall be spayed or neutered by a licensed veterinarian upon reaching the age of six months. A dog or cat shall not be spayed or neutered if a licensed veterinarian certifies that said animal is physically unable to undergo such an operation within the time limitations. The individual adopting the dog or cat must sign a written agreement with the adopting facility guaranteeing that such animal shall be neutered or spayed within the time limitations specified in this section.
- (b) Any dog or cat adopted from a local humane society, animal care facility, or animal adoption agency shall be microchipped by a licensed veterinarian, or person supervised by a licensed veterinarian, before leaving the animal shelter.

Sec. 14-15. - Exclusion of service dogs prohibited.

No person owning, operating, or maintaining any public place of business to which the general public is invited for any business purpose shall exclude therefrom any dog that has been trained to assist the blind, the hearing-impaired, or the physically disabled. However, such dog must be in the company of the handicapped person for whom it was trained to assist or in the company of a licensed obedience service trainer.

Sec. 14-16. - Confinement by other than city officials; notice required.

Unless authorized by the owner of an animal, no person shall hold or retain possession of any animal of which he is not the owner for more than 24 hours without first reporting the possession of the animal to a humane officer, or an animal control agency, or its designee. When reporting possession of an animal, such person shall give his name and address, a description of the animal, a true and complete statement of the circumstances under which he took possession of the animal, and the precise location where the animal is confined.

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Sec. 14-17. - Breaking into animal shelter prohibited.

It shall be unlawful for any person to break into any animal shelter where animals are impounded by the city or in any way remove or assist in the removal of any animal from the described property, without lawful permission.

Sec. 14-18. - Dangerous and poisonous animals prohibited.

No person shall harbor or possess within the city any poisonous animal (whether by birth or otherwise), reptile, amphibian, fish, or insect, or any animal that poses a threat to the public health and safety. Such animal may be impounded by the animal control agency and disposed of in a manner determined to be in the best interest of the animal and the public.

Sec. 14-19. - Impoundment procedures.

(a) An animal control officer, humane officer, or police officer may immediately seize, impound, or confine any of the following animals:

- (1) Any dog or cat without a valid license tag;
- (2) Any animal running at large;
- (3) Any animal constituting a public nuisance;
- (4) Any unattended animal that is ill, injured, or otherwise in need of care;
- (5) Any unattended animal that is reasonably believed to have been abused or neglected;
- (6) Any animal that is reasonably suspected of having rabies;
- (7) Any animal charged with being dangerous or determined to be dangerous by the animal control agency;
- (8) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested, or evicted from his regular place of residence;
- (9) Any unattended animal that is exhibiting aggressive or dangerous behavior and is not sufficiently confined to its own property.

Parts (1), (2), (3), and (9) above shall not apply to ear-tipped, free-roaming cats.

- (b) If any dangerous, ferocious, or vicious animal is found at large and cannot be safely impounded, an animal may be tranquilized, slain, or humanely euthanized to prevent harm or undue suffering by a police officer, an animal control officer, or a humane officer.
- (c) Impounded dogs and cats that are not properly licensed must be kept for no fewer than two days before being adopted out or humanely euthanized.
- (d) If dogs and cats licensed under this chapter are impounded by the animal control agency, an attempt shall be made by the humane officer to return the animal to the owner, as indicated on the records of the animal control agency, as soon as is practical after the time of the impoundment. If the attempt to return the animal is impossible or without success, the animal control agency shall send a written notice to the owner at the address indicated in the records of the animal control agency, that this agency has in its possession this animal and that unless this animal is claimed by the owner within 14 days from the date of its impoundment, the animal may be placed for adoption or humanely euthanized. This process shall only apply for a first time violation. On any subsequent violation, the impounded dogs or cats licensed under this chapter shall be kept for no fewer than five days to permit their owners to claim them. After the fifth day, if their owners have not claimed the animal and paid the required fees, the dog or cat may be placed for adoption or humanely euthanized.
- (e) All other impounded animals, except dogs and cats specifically covered herein, shall be under the authority of the humane officer. The animals shall be held at least one day, after which time the

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animal shelter shall have the authority to take whatever action is necessary with regard to adoption or euthanasia of such animals.

- (f) The city animal control agency shall have authority to take whatever action is reasonably necessary, including humane euthanasia, to deal with a sick or injured animal, for the welfare of the animal and for the safety of humane officers and the public.
- (g) Nothing contained herein shall limit the animal shelter's authority to take whatever action is reasonably necessary to provide veterinary care by a licensed veterinarian for a sick or injured animal.
- (h) All impounded dogs and cats claimed by their owners shall be permanently microchipped for identification purposes.
- (i) Any animal impounded in an animal control facility, if not reclaimed by its owner as provided for herein, shall thereby become the property of the animal control agency and, if not adopted by the public, shall be humanely euthanized.
- (j) Reclaiming procedures of impounded animals.
 - (1) An owner who is reclaiming an impounded animal shall pay the animal control agent for all fees and expenses incurred while the animal is impounded. Such fees and expenses shall include, but are not limited to: redemption fee, boarding fee, microchip identification fee, permit and licensing fee, vaccination expenses, veterinary service expenses, and any other expenses reasonably incurred for the benefit of the animal.
 - (2) No unlicensed dog or cat shall be released from an animal shelter without a city pet license being issued in accordance with this chapter, except a dog or cat less than three months old. Before a city pet license is issued for a dog or cat, the owner must show proof that the animal has been vaccinated against rabies. If the owner cannot show such proof and the shelter where the animal is impounded does not have licensed veterinary services on site to administer such vaccination, the owner can gain release of his dog or cat by showing a receipt for prepaid veterinarian charges for rabies vaccination and agreeing to get his dog or cat vaccinated for rabies by a licensed veterinarian within 48 hours after such release. After showing proof within 72 hours after release that the owner's dog or cat actually received a rabies vaccination, the owner shall be issued a license tag. Failure of the animal owner to obtain such vaccination after such release shall constitute a breach of the release agreement and shall entitle the city animal control agency to regain possession of the animal.
- (k) Licensed animal (reclaiming).
 - (1) An owner redeeming an impounded but licensed animal shall pay no redemption fee to the city, but shall pay for any and all costs incurred by the animal control agency under this chapter.
 - (2) An animal impounded for a second time within a 12-month period shall not be released to its owner unless the owner pays a redemption fee of \$25.00 to the animal control agency and pays for any and all expenses incurred by said agency under this chapter.
 - (3) Such redemption fee shall increase by an additional \$25.00 per impoundment for each subsequent time within a 12-month period that the same animal or any other animal belonging to the same owner becomes impounded. Any animal impounded, pursuant to the provisions of this chapter, on three separate occasions shall be considered a dangerous animal.
- (l) Reclaiming unlicensed animal.
 - (1) An owner redeeming an impounded but unlicensed animal shall pay to the animal control agency a redemption fee of \$50.00 before the animal is released.
 - (2) Such redemption fee shall increase by an additional \$25.00 per impoundment for each subsequent time within a 12-month period that the same or any other unlicensed animal belonging to the same owner becomes impounded.

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- (m) Any impounded animal which is not required to be licensed under the provisions of this chapter may be redeemed by its owner for a fee of \$25.00. Any animal impounded on three separate occasions shall be considered a nuisance animal under this chapter. The city animal control agency shall collect all such licensing and redemption fees for the city and shall account and pay over to the city controller such amounts of such fees as required by the animal control contract between the city and the animal control agency.
- (n) An animal's owner shall be liable for any expenses, including veterinary services, transportation or handling expenses incurred by the local humane society, animal care facility, animal shelter, or any other agency under this chapter.
- (o) When impoundment is authorized under this section and the animal is not found by animal control officials or the police, the animal control agency is authorized to obtain a court order requiring the animal's owner to present the animal at the time and place of the agency's choosing.

Sec. 14-20. - Protected animals.

- (a) No person shall possess, offer for sale, attempt to buy or own within the city any of the following animals of either thoroughbred or hybrid stock or pedigree:
 - (1) All wild cats of the family *felidae*.
 - (2) Polar bear (*Thalarctos maritimus*).
 - (3) Red wolf (*Canis niger* and hybrids).
 - (4) Vicuna (*Vicugna*).
 - (5) Alligator.
 - (6) Caiman or crocodile of the order of *crocodilia*.
 - (7) Gray or timber wolf (*Canis lupus* and hybrids).
 - (8) Sea otter (*Enhydra lutris*).
 - (9) Pacific ridley turtle (*Lepidochelys olivacea*).
 - (10) Atlantic green turtle (*Chelonia mydas*).
 - (11) Mexican ridley turtle (*Lepidochelys kempi*).
- (b) No person shall buy, sell, or offer for sale or own a native or foreign species or subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress), as amended.
- (c) No person shall import or cause to be imported into this city any part of the plumage, skin, or dead body of any species of hawk, owl, or eagle. This division shall not be construed to forbid or restrict the importation or use of the plumage, skin, body, or any part thereof legally collected for use by American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (d) This section shall not be construed to prevent the importation, possession, purchase, or sale of any species to any person or organization licensed to present a circus or carnival pursuant to this Code.
- (e) A humane officer may seize and impound any animal being offered for sale or owned in violation of this section. In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

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Sec. 14-21. - Keeping certain animals prohibited.

- (a) No person shall keep, maintain, or have in his possession or under his control, within the city, any poisonous reptile or any other dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animal, or any other animal or reptile of wild, vicious, or dangerous propensities.
- (b) No person shall keep, maintain or have in his possession or under his control, within the city, any of the following animals of either thoroughbred or hybrid stock or pedigree:
 - (1) Any animal poisonous by birth or otherwise, including rear-fang snakes;
 - (2) Apes such as chimpanzee (*Pan*), gibbons (*Hylobates*), gorillas (*Gorilla*), orangutans (*Pongo*), and siamangs (*Symphalangus*);
 - (3) Baboons (*Papio*, *Mandrillus*);
 - (4) Bears (*Ursidae*);
 - (5) Bison (*Bison*);
 - (6) Cheetahs (*Acinonyx jubatus*);
 - (7) Crocodilians (*Crocodylia*);
 - (8) Constrictor snakes including, but not limited to, boa, python, and anaconda;
 - (9) Coyotes (*Canis latrans*);
 - (10) Deer (*Cervidae*), such as white-tailed deer, elk, antelope, and moose;
 - (11) Elephants (*Elephas and Loxodonta*);
 - (12) Game cocks and other fighting birds;
 - (13) Hippopotami (*Hippopotamidae*);
 - (14) Hyenas (*Hyaenidae*);
 - (15) Jaguars (*Panthera onca*);
 - (16) Leopards (*Panthera pardus*);
 - (17) Lions (*Panthera leo*);
 - (18) Lynxes (*Lynx*);
 - (19) Monkeys, old world (*cercopithecidae*), new world;
 - (20) Ostriches (*Struthio*);
 - (21) Piranha fish (*Characidae*);
 - (22) Pumas (*Felis concolor*), such as cougars, mountain lions, and panthers;
 - (23) Rhinoceroses (*Rhinocero tidae*);
 - (24) Sharks (class *Chondrichthyes*);
 - (25) Snow leopards (*Panthera uncia*);
 - (26) Spiders and insects which are poisonous;
 - (27) Tigers (*Panthera tigris*);
 - (28) Wolves (*Canis lupus* and hybrids);
 - (29) Monitor lizard; or
 - (30) Wild animals.

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- (c) The provisions of this section shall not apply to institutions of higher learning, zoological parks, or circuses if:
 - (1) Their location conforms to the provisions of city ordinances.
 - (2) All animals and animal quarters are kept in accordance with the animal care requirements in this chapter.
 - (3) Animals are confined in such a manner so as to prevent their escape and protect the public from coming in direct contact with them.
- (d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

Sec. 14-22. - Seizure of certain animals.

- (a) No person shall harbor, own, or confine on his premises any wild animal (*ferae naturae*). Wild animals shall include, but are not limited to, raccoons, skunks, foxes, squirrels, chipmunks, porcupines, wolves, and woodchucks.
- (b) Zoological parks, animal care facilities, circuses or carnivals properly licensed pursuant to this chapter, and persons possessing a valid wildlife permit from the state department of conservation are exempt from this section.
- (c) Any person who owns, possesses, or harbors any wild animal in violation of this section may have the animal seized and impounded.
- (d) In addition to any fine issued for violation of this section, the person violating any provision of this section shall be responsible for any and all costs expended by the animal control agency in transporting, keeping and/or handling the animal.

Sec. 14-23. - Serious injury or death.

- (a) If an animal kills or causes serious injury, the animal shall be deemed a dangerous animal, pursuant to section 14-1, and the animal shall be humanely impounded. The owner shall be responsible for the costs of caring for the animal during the period of impoundment, including, but not limited to, costs of boarding and veterinary treatment, if necessary. If the owner institutes an appeal pursuant to section 14-56, and the animal is ultimately determined not to be a dangerous animal, the owner shall not be charged the costs of boarding the animal.
- (b) Upon the impoundment of the animal pursuant to this section, the owner shall be given 48 hours to show or apply for a license pursuant to section 14-56 or to appeal the determination that the animal is a dangerous animal pursuant to section 14-1.
- (c) If the owner fails to appeal or to show proof of or apply for a license within 48 hours of impoundment, or if the owner waives in writing all ownership interests in the animal, the owner's right to possession, title, custody, and care of said animal shall be forfeited, and the animal may be humanely euthanized.
- (d) If the owner's appeal is denied, the owner shall have 48 hours after the denial to apply for a license pursuant to section 14-56 and 14 days after the denial to actually obtain a dangerous dog permit. The failure to apply within 48 hours of the denial constitutes waiver of ownership rights in the animal.
- (e) The owner of an animal which kills or causes serious injury to a person who is found guilty of criminal trespass as heretofore described shall not be subject to the violation provisions set forth herein.
- (f) If a conflict arises between the provisions of this section and other sections of this chapter, the provisions of this section shall prevail due to the public health and safety concerns.

Sec. 14-24. - Penalty.

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Any person who violates any provision in this chapter is subject to citations and prosecution through the ordinance violations bureau. A fine schedule is located in section 2-2(b).

Secs. 14-25—14-49. - Reserved.

ARTICLE II. - REGISTRATION AND LICENSING

Sec. 14-50. - Performing animal license.

- (a) No person shall operate or maintain a performing animal/animal exhibition without first having obtained a license from the animal control agency.
- (b) The applicant shall describe the proposed location, the purposes for which it is maintained, and the dates and hours of such performances. The application shall be accompanied by the written approval of the department of code enforcement showing compliance with the local and state regulations governing the location of and sanitation at the establishment, the written approval of the building, zoning, and public health and safety regulations.
- (c) The applicant shall provide proof of insurance executed by a company legally authorized to do business in the state. The liability limits shall not be less than the amounts set forth under state law.
- (d) Each license for any performing animal exhibition shall cost \$100.00 per day and shall be valid for no more than five consecutive days.
- (e) Licenses for such performing animal exhibitions shall not be transferable from one owner to another or to different premises.
- (f) Any license issued under the provisions of this section may be suspended or revoked for violation of any local, county, or state law regulating such establishments, upon notice and hearing to the licensee as provided in section 2-420

Sec. 14-51. - Pet registration.

- (a) This section does not pertain to any dangerous animal, attack dog or free-roaming cats.
- (b) Any person owning, keeping, harboring, or having custody of any dog or cat over the age of three months must obtain a pet registration for such animal. No pet registration shall be required of any municipal animal control facility or governmental agency, or for a service dog. Animals belonging to those agencies or persons will be issued complimentary registration tags.
- (c) A written application for such registration shall be made to the city animal control agency or city controller's office. The applicant shall include his name and address, a description of the animal, payment of the appropriate fee, a valid rabies certificate, and written verification by a licensed veterinarian that the pet has been spayed or neutered. This application must be made within 30 days after either obtaining a dog or cat over three months of age, or after a younger animal attains the age of three months. This requirement shall not apply to a nonresident keeping a dog or cat within the city for not longer than 30 days.
- (d) A durable tag stamped with a registration number and year of issuance will be provided to pet registration holders for each registration granted. Dogs and cats must wear their tags at all times, except when involved in any organized show, obedience demonstration, training situation, when under the care of a licensed veterinarian, or when properly kenneled.
- (e) No such registration shall be issued for a dog or cat unless the animal owner provides proof of current and effective rabies vaccination.
- (f) Owners wishing to purchase a multiyear pet license, may do so at participating veterinarians. Multiyear licenses are issued only to animals that are current on rabies vaccinations, have been properly microchipped, and spayed or neutered. Multiyear licenses are renewable at a participating veterinarian's office every three years, upon update of rabies vaccinations.

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Sec. 14-52. - Pet shop permit.

- (a) No person shall operate a pet shop without first obtaining from the city or its agent a pet shop permit and paying the necessary fees. Any person holding a pet shop permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:
 - (1) Date of sale;
 - (2) Name, address, and telephone number of the purchaser and permit holder;
 - (3) Permit holder's number;
 - (4) Species, breed, description, age, and sex of dog or cat sold;
 - (5) The animal's origin, its owner's name and address, and its health papers, as required under state law;
 - (6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;
 - (7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.
- (b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale, and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.
- (c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.
- (d) All pet shops shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.
- (e) Pet shop permits shall cost \$100.00, annually.

Sec. 14-53. - Breeder permits.

- (a) No person shall operate as a breeder without first obtaining from the city or its agent a breeder permit and paying the necessary fees. Any person holding a breeder permit shall furnish, at the time of sale, to each customer purchasing a dog or cat a written statement containing the following information:
 - (1) Date of sale;
 - (2) Name, address, and telephone number of the purchaser and permit holder;
 - (3) Permit holder's number;
 - (4) Species, breed, description, age, and sex of dog or cat sold;
 - (5) The animal's origin, its owner's name and address, and its health papers, as required under state law;
 - (6) Vaccination and parasite medication administered to the animal, date administered, and the name of the veterinarian or person who administered the same;
 - (7) Guarantee of good health for a period of not less than one week, with recommendation to have the animal examined by a licensed veterinarian.
- (b) The permit holder shall retain a copy of said written statement for a period of 12 months from the date of sale and provide a duplicate copy to the licensing authority if the purchaser resides within the corporate limits of the city.

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- (c) The permit holder shall also deliver to the purchaser at the time of sale a written statement of the registration and licensing requirements applicable to the purchased animal if the purchaser resides within the corporate limits of the city. Such statement shall be prepared by the city and provided by the animal control agency.
- (d) All breeders shall take care to house animals in a sanitary manner and to provide appropriate veterinary services, humane care, and housing according to the needs of individual species.
- (e) There shall be four types of breeder's permits.
 - (1) Minor breeder permit.
 - a. Any owner or person having custody of a dog or cat that has delivered a litter, who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a minor breeder permit for the sum of \$50.00 per animal, plus any applicable kennel/cattery permit fees.
 - b. Each permit will be valid for one year from issuance.
 - c. No litter may be delivered from the permitted cat or dog or on the owner's property during the existence of a minor breeder's permit. Such an unauthorized litter will result in the property and/or animal owner being required to obtain a major breeder permit.
 - d. A permit is needed whether the litter was a result of an intentional pregnancy or not.
 - (2) Major breeder permit.
 - a. Any owner or person having custody of a dog or cat that has delivered more than one litter in 12 months time who chooses not to relinquish the animal to the animal control agency and does not choose to have the animal neutered or spayed, shall be required to purchase a major breeder permit for the sum of \$100.00 per animal, plus any applicable kennel/cattery permit fees.
 - b. Each permit will be valid for one year from issuance.
 - c. A permit is necessary whether the pregnancies were intentional or not.
 - (3) Combination permit.
 - a. Any owner or person operating a kennel or a cattery and wishing to be a major or minor breeder shall obtain a combination permit annually.
 - b. The annual fee is \$150.00.
 - c. The combination permit will replace the need for obtaining individual permits for each activity, but all requirements for each permit shall be met before a combination permit will be issued.
 - (4) Dangerous dog breeder.
 - a. A person who intends to breed any dangerous animal shall apply for a license to breed such animals from the animal control agency and the city's duly authorized agent. The applicant shall specify in the application the breed, age, sex, and license number of such animal that the person intends to use for breeding. The application shall be accompanied by a fee of \$200.00. The applicant must address the following items when completing said application:
 - 1. Description of the physical facilities where the breeding will take place;
 - 2. Authorization to inspect said breeding facilities to ensure compliance with this section and section 14-56
 - 3. Consent to comply with all zoning and public safety laws.

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- b. If the animal control agency or the city's duly authorized agent is satisfied that the applicant meets the requirements under this section, he shall issue a local breeder's license to the applicant; however, a breeder's license shall not be issued to anyone convicted of an offense against an animal as set forth in IC 35-46-3-1.
- c. The licensee must notify the department of code enforcement, the animal control agency, or the city's duly authorized third party of the birth of all offspring of such animal within 48 hours of such births.
- d. No person shall breed such animals unless the person has been issued a breeder's license under this section.

Sec. 14-54. - Kennel/cattery permit.

Any owner or person operating a kennel or cattery must comply with all animal care and acreage requirements within this article. In addition, such owners or persons must obtain an annual permit according to the following schedule:

- (1) 4—15 animals\$ 50.00
- (2) 16—25 animals 75.00
- (3) 26 or more animals 100.00

Sec. 14-55. - Public nuisance animal permit.

- (a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep a public nuisance animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a nuisance animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of \$25.00, and be directed to the animal control agency and the department of code enforcement. Free-roaming cats are exempt from this requirement.
- (b) *Application for license; form; accompanying information.* Any owner of a public nuisance animal shall apply to the animal control agency or the city's agent for the licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:
 - (1) A valid driver's license or state-issued picture identification showing the owner's name and current address;
 - (2) Proof that the applicant owns said animal and is 18 years of age or older;
 - (3) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;
 - (4) Proof that the animal has been microchipped by a licensed veterinarian.
- (c) *Confinement of animal.* The nuisance animal shall be confined, at all times, within an escape-proof dwelling, kennel or appropriate animal control commission-approved fenced-in yard. All exterior doors or gates shall be locked in such a way that the animal cannot remove or unlock it. When such animal is not confined within a dwelling, kennel, or yard, it shall be reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.
- (d) *Permit tag.* The nuisance animal shall wear a permit tag issued by the animal control agency stating that the animal is registered as a nuisance animal.
- (e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall microchip the animal and assign a specific license

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number to said animal, without duplication, which number shall remain the same for the life of the animal.

- (f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or the owner's agent shall report said incident immediately to the city animal control agency.
- (g) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.
- (h) *Revocation of permit.* If a nuisance animal permit is revoked, the owner shall not be reissued another permit.
- (i) *Determination of nuisance animal; time limit for obtaining permit.* If the animal control agency and/or department of code enforcement determines that an animal should be deemed a nuisance animal, the owner shall have a maximum of 14 days to obtain the proper permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be adopted or euthanized.
- (j) *Violation of chapter provisions.* If the owner of a nuisance animal violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal into the custody of the humane society for adoption or euthanized.
- (k) *Change of owner.* If a nuisance animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.
- (l) *Change of address; notification of animal control agency.* The owner of a nuisance animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.
- (m) *Expiration of license.* All licenses issued under this article shall expire one calendar year from the date of issue, unless authorized, in writing, by the animal control commission pursuant to other provisions in this chapter.
- (n) *Animal running at large, stolen, etc.* The owner, or owner's agent, of an animal required to be licensed under this article shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

Sec. 14-56. - Dangerous animal/attack dog permit.

- (a) *License required; appeal from determination of dangerous animal.* A person shall not own, harbor, possess, or keep an attack dog or any other dangerous animal unless such animal is licensed under this section or an application for licensing of such animal under this section is pending. Any person whose pet has been determined to be a dangerous animal may file an appeal within 48 hours after such determination. The appeal shall be in writing, accompanied by a nonrefundable appeal fee of \$25.00, and shall be directed to the animal control agency and the department of code enforcement.
- (b) *Application for license; form; accompanying information.* Any owner of an attack dog or other dangerous animal shall apply to the animal control agency or the city's agent for licensing of said animal. The application shall be on a form provided by the city's agent and shall be accompanied by the following:

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- (1) A valid driver's license or state-issued picture identification showing the owner's name and current address;
 - (2) Proof that the applicant owns said animal and is 18 years of age or older;
 - (3) One copy of a registration certificate issued for said animal by the A.K.C. and/or A.D.B.A., if available and applicable;
 - (4) One copy of the current immunization and health records for said animal showing that the animal received a current rabies vaccination by a licensed veterinarian;
 - (5) Proof that the applicant has insurance coverage for not less than \$300,000.00 for any injury, damage, or loss caused by said animal;
 - (6) Four photographs of said animal from four different sides taken not more than one month before the date of the application. Such photographs shall consist of a front, back, left, and right side view of the animal;
 - (7) Proof that the animal has been microchipped by a licensed veterinarian;
 - (8) The name, address, and phone number of the animal's previous owner.
- (c) *Confinement of animal.* The dangerous animal/attack dog shall be confined, at all times, within a habitable escape-proof dwelling or an escape-proof cage made of at least 11-gauge wire with at least six feet high sides, a wood or wire roof, and a brick or cement floor. The cage door also shall be locked with a padlock. When such animal is not confined within a habitable dwelling or an escape-proof cage, it shall be muzzled and reined or tethered to its master, owner, or keeper who shall maintain control over the animal to prevent injury to any person or animal.
- (d) *Permit tag.* The dangerous animal/attack dog shall wear a permit tag issued by the animal control agency stating that the animal is registered as a dangerous animal/attack dog.
- (e) *Assignment of license number.* When licensing an animal not previously licensed under this section, the animal control agency or its designee shall assign a specific license number to said animal, without duplication, which number shall remain the same for the life of the animal.
- (f) *Lost or escaped animal.* If the animal is lost or escapes, the owner or owner's agent shall report said incident immediately to the city animal control agency.
- (g) *Posting of signs on property where animal will be kept.* The owner of a dangerous animal/attack dog shall post signs on his property where such animal will be kept, clearly visible from the closest street, advising the general public about such animal's presence on the premises. Such signs shall be supplied by the animal control agency after applicant pays for the permit. The permit, shall not be issued until the owner posts the signs, and the animal control agency inspects the property to verify proper posting of the signs. The cost of the signs is nonrefundable, and they will belong to the applicant even if the permit is reissued or revoked.
- (h) *Persons convicted of certain felonies not to be issued a license.* No person shall be issued an attack dog/dangerous animal permit if they have been convicted of a felony involving violence, drugs, animal cruelty or animal fighting.
- (i) *Inspection of premises where animal is kept.* The animal control agency shall visually inspect the premises where the animal is kept. The inspection will consist of the cage, or if there is no cage, the officer will inspect the escape-proof habitat dwelling, doors, windows, and screen opening to determine if, in fact, they are escape-proof. Also, the inspection will consist of the placement of warning signs, the animal leash, the muzzle, and the padlock for the cage. The animal control agency must be satisfied that the owner has met all licensing requirements before issuing or renewing a permit.
- (j) *Revocation of permit.* If an attack dog/dangerous animal permit is revoked, the owner shall not be reissued another permit.

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- (k) *Exemption from provisions of section.* Duly authorized members of the police department or other law enforcement agencies including, but not limited to, game wardens, conservation officers, and other law enforcement officers shall be exempt from the provisions of this section if the animal is used for law enforcement duties.
- (l) *Failure to notify animal control department or code enforcement department of address of dangerous animal.* If the animal control agency and/or department of code enforcement is notified of an address where an attack dog is being kept or harbored, and that animal and owner of the property has not been in violation of any section of this chapter, the owner shall have a maximum of 14 days to obtain the attack dog/dangerous animal permit. If the permit is not obtained within the 14-day period, the animal shall be impounded. The animal will then be held a maximum of ten days so that a permit can be issued. If a permit is still not obtained, the animal shall be euthanized.
- (m) *Violation of chapter provisions.* If the owner of a dangerous animal/attack dog violates any provisions of this chapter, the animal shall be impounded immediately and held until an animal control commission hearing. At such hearing, the animal control commission shall determine whether in fact a violation of this chapter has occurred. If the commission determines that a violation of this chapter has occurred, it shall have the authority to impose a fine and/or order the animal euthanized. A dangerous animal/attack dog shall not be euthanized until after the animal control commission has rendered a final decision.
- (n) *Change of owner.* If an attack dog/dangerous animal changes owner, the new owner must apply for a new permit. The original owner's permit shall not be transferable to the new owner. The original owner shall notify the animal control agency that the animal has been sold or given away.
- (o) *Notification of address change.* The owner of an attack dog/dangerous animal shall notify the animal control agency if the address changes where the animal is being kept. The owner must report the new address so an inspection can be made of the premises.
- (p) *Expiration of license.* All licenses issued under this article shall expire one calendar year from the date of issue.
- (q) *Fighting.* No person shall fight, bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any animal required to be licensed under this chapter. A person who violates this section shall be reported by the department of code enforcement or its designated agent to the county prosecutor's office for prosecution under IC 35-46-3-8 et seq.
- (r) *Notification by owner/agent.* The owner, or owner's agent, of an animal required to be licensed under this chapter shall notify the city police department and the city's animal control agency within four hours if said animal is running at large, has been stolen, or has attacked a person or a domestic animal.

Sec. 14-57. - Permit exemptions.

- (a) No permits shall be required for the following organizations or animals:
 - (1) The city animal control agency;
 - (2) A state-licensed veterinary hospital/ clinic;
 - (3) Birds held under state or federal falconry permits; or
 - (4) Service dogs specifically trained to assist their disabled owner.
- (b) All other animal care provisions of this chapter shall apply to such exempt persons or entities.
(Code 1985, § 91.30; Ord. No. 3092, 9-18-1987; Ord. No. 3105, 10-5-1987; Ord. No. 4152, 4-7-1997; Ord. No. 4969, § 1(exh. A), 9-6-2005)

Sec. 14-58. - Issuance of permits; additional requirements.

- (a) *Application.*

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- (1) *Information to be included.* A person may register or apply for a permit with the city animal control agency. The applicant shall include, on the appropriate forms, the following information: his name, address, and phone number; the type of permit requested; the number and description of animals; proof of a valid rabies vaccination by a licensed veterinarian, if required by law; information regarding sterilization; and the appropriate registration or permit fee. Appropriate state and federal permit numbers must be provided in cases involving wildlife or federally protected animals, or any animal which requires any state or federal permit.
- (2) *Compliance with applicable federal, state and local laws.* All applicants shall comply with all other applicable federal, state and local laws, and the applicant shall not have been convicted of any cruelty to animal offense pursuant to the state code.
- (3) *On-site inspection.* Applicants for permits shall allow, upon reasonable notice, the city animal control agency to conduct on-site inspections prior to the issuance of any permit and/or at any time during the valid term of such permit.
- (b) *Issuance or denial of permit; factors to be considered.* The city or the animal control agency shall have the authority to issue or deny an application for registration and/or a permit. In determining whether to issue or deny an application for registration or a permit, the city or the animal control agency shall consider the following factors:
 - (1) Whether the person has been convicted of cruelty to animals;
 - (2) Whether the applicant has the proper facilities in place for a specific species as required by this law;
 - (3) Whether the applicant has sufficient knowledge and proof of previous experience in handling and keeping such animal species; and
 - (4) Whether the applicant has a history, documented by the animal control agency or the city's designated agent, of providing inadequate or improper care for such animals.
- (c) *Length of validity.* Registrations and permits, except dangerous animal/attack dog, shall be issued for a term of one year, effective for one year from the date of issue. They shall be purchased within 30 days of acquiring the animal. A performing animal license shall only be valid for 14 days.
- (d) *Approval of application; issuance of permit and tag.* Upon approval of an application for registration or a permit, the city animal control agency shall issue a pet registration or permit in written form which shall include the registration or permit number, the type of registration or permit, and any pertinent information. In addition, for each registered pet, the city animal control agency shall issue a durable tag stamped with the registration number and year of issuance for each said registration.
- (e) *Animal control agency to keep records of registration number, etc.* The city animal control agency shall maintain records with the identifying registration number, microchip number and permit number.
- (f) *Fees.* All fees shall be paid at the time of application and prior to the issuance of the permit or registration.
- (g) *Registration, permit, etc., not transferable.* No person shall use any registration, permit, license, or tag for any animal other than the animal for which it was issued.
- (h) *Forged registration, permit, etc.* It shall be unlawful for any person to manufacture, to cause to be manufactured, or to have in his possession or control a stolen, counterfeit, or forged animal registration, permit, license, tag, rabies or neutering certificate, or other form of licensing or documentation required by this section.

Sec. 14-59. - Fees.

In addition to all other fees required by law, an animal owner shall pay the following annual fees:

- (1) Each altered and microchipped animal\$10.00
- (2) Each altered and nonmicrochipped animal 15.00

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- (3) Each unaltered and microchipped animal 15.00
- (4) Each unaltered and nonmicrochipped animal 25.00

(If a licensed veterinarian determines that the neutering or spaying process constitutes a threat to the health of said animal, the fee shall be calculated as though the animal were altered.)

- (5) Replacement one-year tag\$ 5.00
- (6) Multiyear tag 30.00
- (7) Replacement multiyear tag 30.00

Sec. 14-60. - Registration or permit revocation.

Any pet registration or permit, provided for in this article, may be revoked after notice and a hearing before the code enforcement hearing officer and/or animal control commission. An owner's pet registration or permit shall be revoked only after said officer or commission finds that the animal owner or permit holder has failed to comply with any requirements of this chapter.

Sec. 14-61. - Inspection.

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter, or when there is reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or state law, a health officer, police officer, code enforcement officer, or humane officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or any state law, provided that:
 - (1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and
 - (2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other person having control of the property and request entry, explaining the reasons therefor.
- (b) If the officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe, dangerous, or constitutes a public nuisance as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor. If entry is refused or cannot be obtained, the officer shall have recourse to secure lawful entry and inspection of the property.

Sec. 14-62. – Trap-Neuter-Return.

- (a) Individuals or organizations must obtain approval from the Animal Control Commission to practice Trap-Neuter-Return in City of Mishawaka limits.
- (b) Free-roaming cats captured by a practitioner of trap-neuter-return shall be inspected a minimum of every two (2) hours to ensure the safety of the cat(s).
- (c) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.