

PENDING ORDINANCE: 2018-51  
ORDINANCE NO: 9249  
AS AMENDED: March 5, 2019  
CERTIFICATION DATE \_\_\_\_\_  
CERTIFIED BY \_\_\_\_\_  
FAVORABLY \_\_\_\_\_  
UNFAVORABLY \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 8, REGARDING THE HUMANE TREATMENT OF ANIMALS AND ANIMAL CONTROL PROCEDURES IN THE CITY OF GARY.**

WHEREAS, Indiana Code 36-8-2-6 gives the City of Gary authority to regulate animals, their owners and the reporting of animal cruelty; and

WHEREAS, the humane treatment of animals promotes public safety and welfare of the citizens of Gary; and

WHEREAS, in order to protect animals in the City of Gary area, new amendments to the existing animal Ordinance must be added to include specific guidance on the tethering of dogs, the sheltering of dogs, and the reporting of incidents of animal cruelty; and

NOW, THEREFORE, BE IT ORDAINED by the Council that *Chapter 8, Article 1, Section 8-1, Section 8-2, Section 8-3 and Section 8-4* and Article II Section 8-39 of the Gary Municipal Code are hereby amended to read as follows:

**Sec. 8-1. 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:

*Animal shelter* means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

*Cat hoarding* means any person harboring six (6) or more cats.

*Commercial animal establishment* means any pet shop, grooming shop, zoological park, performing animal exhibition, or kennel.

*Grooming shop* means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

*Humane officer* means any animal control officer or other person designated by the state, a municipal government, or a humane society as a law enforcement officer who is qualified to perform those duties under the laws of this state.

*Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; or any household or noncommercial animal establishment harboring four or more animal except when an a person fosters dogs for thirty (30) days or less.

*Owner* means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

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

*Pet* means any animal kept for pleasure rather than utility or for commercial purposes.

*Pet shop* means any person, whether operated separately or in connection with another business enterprise except for a licensed kennel, which buys, sells, or boards any species of animal

*Public nuisance* means any animal which:

- (1) Molests passersby or passing vehicles.
- (2) Attacks other animals.
- (3) Trespasses on school grounds.
- (4) Is repeatedly at large.
- (5) Damages public or private property.
- (6) Barks, whines, or howls in an excessive, continuous, or untimely fashion.
- (7) Bites human beings or animals.

*Restraint* means any animal securely fenced in or in a building on the property of the owner or an animal secured by leash when off owner's property.

*Tethering* means a device attached to an animal's collar or harness that swivels on an anchor and collar that prevents the tangling of the animal.

*Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

*Potentially dangerous animal* means any animal that constitute a physical threat to human beings or other animals.

*Wild animal* means any live monkey, raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or other warm-blooded animal that can normally be 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 non-domesticated animals operated by a person, partnership, corporation, or government agency.

**Sec. 8-2. - Restraint of animals.**

- (a) All animals shall be kept under restraint at all times. An owner shall exercise proper care and control of his animals to prevent them from becoming a public nuisance. Every female animal in heat shall be confined in a building or secure enclosure in such a manner that the female animal cannot come into contact with another animal, except through planned breeding. Every vicious animal, as determined by the animal control center, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.
- (b) Tethering of Animals. Animals restrained by tethering must wear a properly fitted leather or nylon collar or harness which does not employ a choker mechanism; however, the proper use of choker collars in the training of animals is permitted. The tethering device shall be attached to the animal's collar or harness, shall be at least 10 feet in length and shall have a swivel device on the anchor and collar end to prevent tangling of the animal
- (c) An animal that is tethered must have unrestricted access to adequate shelter and fresh, potable and unfrozen water at all times.
- (d) Prohibited tethering. No person shall:
  - (1) Tether an animal by a rope, chain, cord or other tying device directly attached to the animal's neck;
  - (2) Tether an animal between the hours of 10:00 p.m. and 7:00 a.m.;
  - (3) Tether an animal in or about an abandoned or otherwise unoccupied structure or property for any purpose;
  - (4) Tether an animal under six (6) months of age;
  - (5) Tether an animal without a collar appropriate for the animal's size and weight;
  - (6) Tether more than three (3) animals simultaneously;

(7) Tether more than one (1) animal in a manner that permits physical contact between the tethered animals;

(8) Tether an animal when the temperature is below 32 degrees Fahrenheit or above 90 degrees Fahrenheit, except the dog may be tethered if his dog shelter is heated OR there is sufficient hay and insulation to keep the dog warm in the dog house, and then only for a reasonably short period of time. ;

(9) Tether an animal with a chain or any other tying device that is not appropriate for its size and weight; or

(10) Tether an animal in manner in which the animal can reach a public sidewalk or impede entrance to a residence or business.

(e) The animal control officer or other law enforcement officer shall have the power to seize or destroy animals he reasonably believes to be vicious and running at large; however, any destruction of an animal shall be done in a reasonable manner taking into account the location and the harm or damage to personal or real property, or to the public at large.

### **Sec. 8-3. - Treatment.**

(a) No owner other than a licensed kennel shall own more than four dogs at a time;

(b) No owner or keeper of an animal shall fail to provide the animal with sufficient, good, and wholesome food and water, proper shelter, and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. Any owner or keeper failing to provide these services shall have the owner's dog license revoked and the animal will become the property of the animal control center. No person shall beat, ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans. No owner of an animal shall abandon that animal.

(c) Dog Sheltering. A dog must be sheltered indoors in weather warmer than 90 degrees F or colder than 32 degrees F. When it is colder than 32 degrees, the dog may be outdoors only if the dog shelter is heated OR there is sufficient hay and insulation to keep the dog warm in the dog house, and then only for a reasonably short period of time. At all times when the dog is outdoors, he must have access to shelter. A dog shelter must be in good working condition. A shelter that is in good working condition is a shelter that:

1. Is durable, weatherproof and structurally sound, preferably with a door flap that is in good working order;

2. The shelter must have an insulated floor or straw or other mold and disease resistant bedding that insures dryness;
3. The shelter must be free of anything that might cause harm to the dog including but not limited to trash, deterioration, disease, mold, broken boards, protruding nails, dampness, insects and other unsanitary and dangerous conditions;
4. The shelter must allow the dog to sit and must be appropriate for the dog's size and weight to provide adequate shelter against the elements as determined by the Animal Control Officer. with an understanding that the dog must be able to sit up, stand up, and lay down flat, and the shelter must be small enough that the dog's body heat can keep him warm in the cold;
5. The shelter must have at all times access to clean unfrozen water. If food is present in the shelter, it must be fresh and free of flies, filth, disease, or other unsanitary and harmful element.

(d) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and notify the police immediately.

(e) No person shall expose any known poisonous substance whether mixed with food or not, so that it shall be liable to be eaten by any animal. It shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substances.

(f) Security Dogs:

1. Dogs cannot be left in an abandoned building, or on the premises of an abandoned house, unless it is managed by a professional and licensed K9 security company.
2. Tethering or restricting the movement of any dog in an abandoned building is prohibited;
3. Any dog left to secure an abandoned building by a professional K9 security company shall have continuous access to fresh, potable and unfrozen water and shall be fed at least once per day;
4. Any K9 security company managing dogs at abandoned buildings shall maintain a

“maintenance log” showing daily visitations and times of feeding and shall produce the maintenance log upon request by any law enforcement officer;

5. No dog may be left at an abandoned building under this paragraph for a period in excess of three days.

## ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

### Sec. 8-39. - Enforcement.

- a. The provisions of this chapter shall be enforced by those persons or agencies designated by the municipal authority. It shall be a violation of this chapter to interfere with an officer in the performance of his duties. Interference is presumed when the owner, keeper, harbored, or possessor of an animal refuses entry to an animal control officer or police officer, or refuses to surrender the animal on demand to the officers.
- b. Entry and Inspection: 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, upon any premises, or upon any land, whether it be fenced, open, public, or private, any violation of the provisions of this chapter or Indiana state law, the animal control officer or police officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this chapter or 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;
  2. If the property is unoccupied but not abandoned, the officer shall make a reasonable effort to locate the owner or other persons having control of the property and request entry explaining the reasons therefor;
  3. An animal control officer may enter a building or other structure upon the reasonable cause described above and upon further reasonable cause to believe that the building or structure has been abandoned; the entry may be made without a warrant and without consent of the owner;
  4. If animals can be seen or heard from within a motor vehicle or trailer, and if it appears that the animals are being held under conditions posing a substantial and immediate threat to their health or lives, an animal control officer may

- enter the vehicle or trailer without a warrant and without the consent of any owner, whether the owner be present or absent known, or unknown;
5. Upon such exigent circumstances described above, an animal control officer may enter a building or structure that is not abandoned, whether occupied or unoccupied, without a warrant and without consent of the owner, whether the owner be present or absent, known or unknown;
  6. In the event that animal control officer, Board of Health, or police officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe, or dangerous 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. In addition to the warrantless entries described above, an animal control officer may petition for a judicial warrant authorizing entry, search, and/or seizure; and
  7. Whenever an entry is authorized under this section, the entry may be made despite the circumstance that some property damage may result.
- c. **Immediate Seizure of Neglected or Abused Pets:** A police officer is authorized to seize an animal when there is evidence the dog is being neglected or abused in a life-threatening way. When an animal is seized under this paragraph, the officer shall leave a notice at the premises, and take the dog to Gary Animal Control, a sister agency such as Humane Indiana, the Humane Society, an animal fostering network, or a nearby veterinarian. The notice shall inform the owner where to call to determine the location of the dog, and that the owner is required to pay any necessary veterinarian's bill to retrieve the dog. Any dog seized for neglect or abuse shall be spayed and neutered at the owner's expense prior to release of the pet back to the owner. After the first seizure from an owner under this paragraph, an owner shall be prohibited from retrieving a dog seized a second time under this paragraph.
- d. An Animal Control Report shall be prepared of any alleged violation of any violation of the City's animal control ordinances. The report must include the following:
- (1) Name and address of the location where the violation occurred.
  - (2) A detailed description of the abuse that is alleged, if any.
  - (3) A detailed description of the condition of the premises of the location where the animal(s) are being held.
  - (4) A description of the animal(s) maintained at the address where the alleged violations occurred.

(5) A report of all interactions and communications with the owner(s), witnesses and third parties regarding the alleged incident(s).

(6) A history of the nature of any prior reports made to the same location.

e. Grace period: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed as of its effective date. Provided however, only warnings but no citations for failure to have required tethering equipment or meet new outside shelter requirements shall be issued for the first 90 days after the effective date."

f. Enforcement of violations under Section 8-2, Section 8-3 and Section 8-4 shall be enforced by a designated animal control officer. The animal control officer will determine the severity of the violations and ensuring the course of action in the case. In addition to the removal of the animal from the premises, the remedies available to the animal control officer shall be the same as prescribed in *Chapter 1, Section 7* of the Municipal Code as follows:

i. A person convicted of a violation of this Code shall be punished by a fine of a minimum of \$100.00 for a first offense and a fine not to exceed a minimum of \$250.00 for second offense. Any subsequent offense(s) shall subject the Owner to a fine not to exceed \$2,500.00, or the Owner may surrender the animal to the City's Animal Control department.

ii. The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

iii. Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

PASSED and ADOPTED, by the Common Council of the City of Gary, Indiana, this 5<sup>th</sup>

day of March, 2019.

ATTEST:

  
Suzette Raggs, City Clerk

  
Ronald Brewer, President



Presented by me to the Mayor for her approval and signature this 8th day of March, 2019.

Suzette Raggs  
Suzette Raggs, City Clerk

APPROVED and SIGNED by me this 15th day of March 2019

KFW  
Mayor Karen Freeman-Wilson, City of Gary, Indiana

**PREPARED BY:** Gregory L. Thomas, City Attorney/City of Gary Law Department

**SPONSORED BY:** Councilwoman, Rebecca Wyatt

C.P.O. 18-51/9249  
COMMITTEE ASSIGNMENT \_\_\_\_\_ Reported-out/Date 11-20-18  
1st Reading/Date 11-20-18 Committee Hearing/Date 3-12-19 - 11-27-10  
2nd Reading/Date 11-20-18 Public Hearing/Date 3-5-19  
3rd Reading/Date 2-5-19 Final Reading/Date 2-5-19  
Passed/Date 3-5-19 Defeated/Date \_\_\_\_\_ Deferred/Date \_\_\_\_\_  
Tabled/Date \_\_\_\_\_ Override/Date \_\_\_\_\_ Adopted/Date \_\_\_\_\_  
Publication/Date \_\_\_\_\_ Community Hearing/Date \_\_\_\_\_  
Veto \_\_\_\_\_ Pocket Veto \_\_\_\_\_ Adopted \_\_\_\_\_