

AMENDED MIAMI COUNTY ORDINANCE NO. 6-28-04(b)

An ordinance for the control of animals within the Miami County, Indiana area, prohibiting animals from being at large, providing for the impoundment of animals, repealing prior ordinances and providing a license tag, other fees and penalties.

Be it ordained by the Board of Commissioners of Miami County, State of Indiana, that:

Section A: Definitions

Animal: for the purpose of this ordinance, unless specifically designated otherwise, the word animal shall refer to dogs, cats and all other household animals held as pets.

Owner: means any person or persons owning or have the care, custody, or control of any animal.

At Large means any animal when it is off the property of its owner and not under the control of a competent person.

Authorized agent: means law enforcement officer or authorized employees of the Miami County Commissioners. Miami County Sheriff, Miami County Health Office and Miami County Animal Control Officer. The Animal Control Officer shall be under the authority of the Miami County Sheriff Department.

Animal shelter: means any facility operated by Miami County or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this Ordinance or state law.

Harbor: means the actions of any person who permits any animal to habitually remain or lodge or to be fed within his 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 (3) days.

Health Department: means the Miami County Health Department.

Person: means any individual, firm, association, partnership, or corporation.

Kennel: means a facility operated principally for the purpose of boarding, housing, grooming, breeding or training dogs.

Public Nuisance: means any animal or animals that:

1. Attack passers-by or passing vehicles
2. Attack other animals
3. Damage public or private property
4. Are not confined while in estrus (“heat”).
5. Bark, whine, or howl in an excessive or continuous fashion, unreasonable under the circumstances, as to violate the peace and quiet of the neighborhood..
6. It shall be a public nuisance to harbor more than 3 dogs over the age of 3 months, unless classified as a kennel.
7. It shall also be a public nuisance to harbor more than 6 cats in such a manner

as to create unsanitary living conditions injurious to health and well being as determined by an authorized agent.

Restraint: means the securing of an animal by a leash or confining it within the real property limits by its owner.

Stray: means any animal that does not appear, upon reasonable inquiry, to have an owner.

Vicious animal: means any animal that by its behavior constitutes an immediate and serious physical threat of harm to human beings or other animals.

Wild animals: means any non-domesticated animal, with the exception of small non-poisonous aquatic or amphibious animals and small caged birds.

Miami County Animal Control Authority: The Provisions of this ordinance shall be enforced by the Animal Control Authority in conjunction with Miami County Lawn Enforcement Agencies and courts. The Animal Control Authority shall consist of three (3) members, all of which shall be appointed by the Miami County Commissioners, and which shall include:

1. A Veterinarian.
2. Health Officer of the county or a representative.
3. County Commissioner.

The Animal Control Authority shall meet quarterly the first Wednesday of each quarter at 1:30 p.m. in the Miami County Courthouse.

Section B: Licensing and taxation of animals and kennels -

The provisions of IC 15-5-9-1 through 15-5-9-7 inclusive concerning the licensing and taxation of dogs and kennels are hereby adopted in their entirety and as they may be subsequently amended, and are made a part hereof by reference the same as if fully set out herein. As so adopted, the provisions shall apply, and be enforceable in, the County of Miami, in the State of Indiana. Any violation of the provisions contained in I.C. 15-5-9-1 through 15-5-9-7 inclusive concerning the licensing and taxation of dogs and kennels shall constitute of violation of this ordinance and shall be punishable by fine pursuant to the schedule established herein.

Section C: Prohibitions and Penalties -

1. In addition to those provisions set forth in IC 15-5-9-1 through 15-5-9-17, the following prohibitions and penalties shall apply, and be enforceable in, the County of Miami in the State of Indiana.

2. It shall be unlawful for any owner to allow, suffer, or permit a dog or cat to be at large within the County of Miami, in the State of Indiana.

A. Except that it shall be permissible during hunting season prescribed by State Law for hunting dogs to be allowed to hunt with their owners on private property when permission has been obtained from the owner thereof and to hunt on State lands where allowed.

B. It shall be unlawful for any person to allow his pet or animal to stray beyond his property, unless leashed and under the immediate and complete control of a person capable of controlling such animal. Voice command for the purpose of this Ordinance shall not constitute control. No animal shall ride in the back of a pickup truck unrestrained or uncontained. No animal shall be tied up where the animal can present a threat or become a nuisance to pedestrians traveling on a sidewalk or other thoroughfare.

3. It shall be unlawful for any person to hinder, molest, or interfere with any authorized official in the performance of any duty described in this Ordinance.

4. It shall be unlawful for the owner of any animal to permit said animal to be a public nuisance within the County of Miami, in the State of Indiana. Furthermore,

it shall be unlawful for any owner of any animal to recklessly or carelessly fail to exercise care and control over said animal in such a way that the animal is a public nuisance.

Section D: Rabies Vaccination Required -

All dogs, cats and ferrets three (3) months of age and older must be vaccinated against rabies. The rabies vaccination of a dog, cat and ferret shall be maintained by ongoing re-vaccination of the animal as follows:

1. Ferrets shall be re-vaccinated within twelve (12) months of the prior vaccination.
2. Dogs and cats that are vaccinated with a rabies vaccine whose label recommends annual boosters shall be re-vaccinated within twelve (12) months of the prior vaccination.
3. Dogs and cats that are vaccinated with rabies vaccine whose label recommends a booster one (1) year later and triennially thereafter shall be re-vaccinated within twelve (12) months of the first vaccination and shall be re-vaccinated within thirty six (36) months of each vaccination thereafter.

The owner of the animal is responsible for procuring the vaccination required by this Section. Any dog, cat or ferret not vaccinated in compliance with this section shall be subject to impoundment and all owners shall be subject to fine as established by this ordinance.

Section E: Authority - Any authorized agent of Miami County is given authority to:

Enter upon the land in the County of Miami, in the State of Indiana when in pursuit of any animal which the said agent has reasonable cause to believe is in violation of this Ordinance, except that such agent is not authorized to enter any building without consent of the occupant.

Section F: Redemption and disposition of impounded animals -

All animals found to be running at-large shall be collected by the authorized agent of Miami County and impounded in the shelter designated as the animal shelter, and be confined in a humane manner. Animals not claimed by their owner within the expiration of five (5) days shall become the property of the authorized agency and be disposed of at the discretion of said authority except as hereinafter provided in the cases of certain animals. Animals not claimed within the five (5) days may be disposed of in a humane manner if not claimed by their owner.

1. Any healthy dog or cat apprehended or impounded may be redeemed by the owner or the persons as authorized in Section F within five (5) days of such apprehension, upon showing that the dog has a current rabies vaccination certificate, current Township license and the payment of the following fees. These fees are to be used to maintain the holding facility.

A. If the animal has been apprehended by an agent of Miami County, the sum of Twenty-Five Dollars (\$25.00), and

B. A reasonable fee for room and board for each day or fraction thereof, during which the dog or cat was impounded.

C. After five (5) days, the dog or cat may be destroyed or possession given to another. If any animal or animals must be destroyed pursuant to this ordinance the identified owner shall be assessed a \$25.00 fee for incineration of each animal.

D. Subparagraphs A, B and C of this Section shall apply to any animal impounded under this Ordinance.

2. Any animal impounded, for any reason, which appears to any duly licensed veterinarian to have any infectious or contagious disease, other than rabies may be destroyed forthwith.

3. Any person bitten by an animal must report the incident to the Miami County Health Department.

4. Any dog or cat apprehended and impounded for having bitten a person, being suspected of having bitten a person, or appearing to have rabies, shall be kept under observation for a minimum of ten (10) days unless the dog or cat shall sooner die. At the expiration of said ten (10) day period, the animal may be redeemed by the owner or other persons as provided in Section G, upon showing that the dog has a current Township license and the animal has a current rabies vaccination tag and by payment of the fees set forth in Section 1 herein above; however, home quarantine of an owned animal may be allowed by the Miami County Health Department.

5. Quarantine Guidelines

One essential component of effective rabies control is the management of dogs and cats known to or suspected to have been exposed to rabid (or suspect rabid) animal, or to have bitten or exposed a person. Based upon the circumstances involved in the bite and the vaccination status of the animal involved, one of the following quarantine plans will be required at the discretion of the Animal Control Officer involved.

A. Close Observation

1. Animal shall be kept on owner premises
2. Owner shall be informed of potential rabies
3. Owner shall be required to notify enforcing agency of unusual behavior or change in health status of pet.

B. Strict Confinement

1. Animal shall be kept on designated property—in the house, garage, or other escape-proof building or enclosure approved by the local director of health or his agent.
2. Animal shall be leash walked under immediate control of an adult on property designated for confinement.
3. Owner shall be informed of potential rabies and given instructions in writing.

4. Owner is required to immediately notify enforcing agency of unusual behavior or change in health of pet.

C. Quarantine

1. Animal shall be confined off owner's property in a designated facility, i.e. animal shelter, veterinary hospital or qualified commercial kennel.

2. Strict quarantine on owner premises shall be possible at discretion of animal control or Miami County Health Department..

3. In case of death of quarantined animal, contact local animal control or health official. **DO NOT DISPOSE OF ANIMAL**

Section G: Notice to Owners -

Immediately upon impounding an animal, the agents of the animal control authority shall make every possible effort to notify the owner of such animal so impounded and inform such owner of the condition whereby he may regain custody of such animal.

Section H: Vicious Animals -

No person shall own, keep or harbor a vicious animal within Miami County, Indiana, provided this section shall not apply to animals under the control of a law enforcement or military agency. For the purpose of this ordinance, a dog may be declared vicious and humanely destroyed by an Authorized Agent if the following facts or criteria are met:

1. That the animal, while running-at-large, has bitten a person or persons and said bite or attack was unprovoked, and that the animal exhibits vicious propensities in present or past conduct, including but not limited to conduct such that the animal (a) has bitten a person or persons on one or more occasions or (b) has caused injuries creating a potential danger to the health and life of the victim or constitutes an immediate and serious threat of harm to human beings or other animals and (c) and cannot be safely captured and impounded by ordinary means.
2. That in order to preserve the public health, safety and welfare of the community, the destruction of said animal is necessary.
3. Every reasonable effort shall be made to avoid killing an animal which has bitten or is suspected of having bitten a person or which appears to have rabies. If the killing of the animal cannot reasonably be avoided, the said authorized agent shall attempt to kill the animal in such a manner so as to preserve the head thereof intact.

Section I: Due Process -

Whenever an animal is declared vicious and has not been humanely destroyed pursuant to Section H, the Animal Control Authority shall notify the owner of said animal of this declaration. Such notice shall be served either in person or by certified or registered mail. The animal, if not already held in quarantine at the Miami County Animal Shelter, shall be surrendered to the Animal Control Authority. Within ten (10) days of the receipt of such notification, the owner may appeal the declaration to the Animal Control Authority or said animal will be humanely destroyed by the Animal Control Authority at the owner's expense. The Owner may also release the animal to the Authority at any time during this ten-day period.

Any decision of the Miami County Animal Control Officer or Authorized Agent under the provisions of this section may be appealed to the Board of Animal Control of Miami County, Indiana, which shall hear and render a decision in this matter. Such appeal by the owner to the Board of Animal Control of Miami County shall be filed with the Board of Animal Control of Miami County within ten (10) days after receipt of notification from the Miami County Animal Control Officer or Authorized Agent that said animal shall be destroyed. The disposition of any animal shall be stayed during the pendency of such appeal. The animal shall remain at the Miami County Animal Shelter during the appeal process. The decision of the Board of Animal Control of Miami County may be appealed as provided by law. The Board of Animal Control of Miami County shall review the information provided by both the Miami County Animal Control Officer or Authorized Agent and the owner of said animal. It should be left to the discretion of the Board of Animal Control of Miami County as to whether or not a formal hearing shall be held or if the Board of Animal Control of Miami County shall review the information provided in camera. The Board of Animal Control of Miami County shall then render a decision determining that (I) the animal is not vicious, or (II) the animal may have vicious propensities and must be controlled in a specific manner as prescribed by the Board of Animal Control of Miami County, or (III) the animal is vicious and should be destroyed. The owner of any animal which is impounded and destroyed under this section shall be responsible for payment of any expenses incurred by the Miami County Animal Shelter for the impoundment and destruction, and failure to pay such fee to the Miami County Animal Shelter within fifteen (15) days after destruction of such animal shall constitute a violation of this section and shall further result in a fine as required in Section O of this Ordinance.

Section J: Wild Animals -

All provisions contained within 312 IAC 9-11 are hereby adopted in their entirety and are made apart hereof by reference. The provisions as adopted shall apply and be enforceable in the unincorporated area of Miami County.

A wild animal possession permit obtained from the Miami County Zoning Administration is required for the possession of the wild animals listed below and for the possession of a state endangered or threatened species.

Class I	Class II	Class III
East, Cottontail Rabbit	Beaver	Wolves (Purebred)
Gray Squirrel	Coyote	Bears (All species)
Fox Squirrel	Gray Fox	Wild Cats (All species, Excluding feral cats)
Southern Flying Squirrel	Red Fox	Venomous Reptiles
	Mink	Crocodylians (At least 5 feet Long)
	Muskrat	
	Opossum	
	Raccoon	
	Skunk	
	Weasel	

Class I or II Wild Animals:

An application for a wild animal possession permit (\$10.00) must be submitted within 5 days of acquiring the animal. A recapture plan is included in the application form and must detail the quick and safe recapture of the wild animal if it escapes or, if recapture is impracticable, plan for the destruction of the animal. The plan must indicate who will be notified, who will attempt to recapture the animal, and what equipment will be used.

Class III Wild Animals:

An application for a wild animal possession permit (\$10.00) must be submitted before taking possession of the animal. An affirmation that neighboring landowners have been given a notice of the species of wild animal, where it will be possessed, and the type of enclosure used must be attached to the application form.

The cage or enclosure required for a Class III wild animal must also be surrounded by a perimeter chain link fence which is at least 6 feet high and have secondary housing such as a den or transport crate in which the animal can be secured.

Once the application has been received for the first permit for that animal, the commercial license clerk will send out letters to neighboring landowners giving them 30 days to submit any concerns. A second notice will be mailed out by certified letter, giving the neighbors an additional 18 days to respond. If a petition is received bearing the signatures of at least 25 people that object to the possession of this wild animal, a public hearing will be conducted to receive comments and a decision will be made by the Deputy Director on the issuance of the permit; otherwise, the permit will be issued.

Endangered or Threatened Species:

Endangered or threatened species of wild animals will be considered Class I, II or III by the Miami County Animal Control Authority and must follow the same procedures accordingly for that class of animal (312 IAC 9-11-1).

The application form must have the signature of a veterinarian testifying that the animal appears to be free of disease, appropriately immunized and in good health.

A conservation officer must inspect the location where the animal is kept to ensure that the housing requirements and specifications applying to the animal are met. This inspection must be completed before submitting the application.

Wild animals possessed under this permit may not be used for a commercial purpose (unless a commercial license issued by the USDA is obtained), for a sporting purpose or as a public display.

Wild animals must be kept in enclosures that ensure the safety of the animal as well as the permit holder and do not pose a hazard to the property of a person other than the permit holder. The wild animal must be kept in a safe and sanitary enclosure that prevents escape of the animal, preventing any maltreatment or neglect of the animal.

A permit may be revoked or suspended if an emergency exists with respect to the safety of the public or the health of the animal or if the permit holder fails to comply with the attached regulations.

The permit must be renewed annually (no fee). An application form must be submitted indicating that it is a renewal, including the old permit number, and must include signatures from a veterinarian and conservation officer. If a Class III permit holder changes their residence at any time during the year, the permit holder will need to follow the same procedures as a first time permit holder.

Section K: Records -

1. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into his custody.

2. It shall be the duty of the Animal Control Officer to keep, or cause to be kept, accurate and detailed records of any monies paid to or held by said Animal Control Officer, which records shall be open to inspection at reasonable time by such persons responsible for similar records of the County of Miami and shall be audited annually. A written copy of such audit shall be submitted to the Miami County Commissioners.

Section L: Enforcement -

Enforcement of this Ordinance shall be by law suit initiated in the name of Miami County by the County Attorney.

Section M: Abandonment of Animals -

It shall be unlawful for anyone to abandon any domesticated pet or animal on any public place, including right-a-way or any public thoroughfare or upon property of others.

Section N: Severability -

It is the intent of the Miami County Commissioners that each separate provision, section, sentence, and clause of this Ordinance shall be deemed independent of all other provisions herein, and it is further the intent of the Board of Commissioners that if any provisions of this Ordinance shall be declared invalid, all other provisions shall remain valid and enforceable.

Section O: Penalty -

1. Any person found to be in violation of this ordinance may be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00), unless noted in each specific section of this ordinance, and if such violation is continued, each day's violation shall be considered a separate offense. Any decision by the enforcement authority maybe appealed to the Circuit or Superior Courts of Miami County, State of Indiana.

Section P: Fine Schedule -

Unless noted in a particular section of this ordinance or upon a specific finding by the Animal Control Authority the following fine schedule shall apply to each violation, each day's violation shall be considered a separate offence:

1 st violation	\$100.00
2 nd violation	\$125.00
3 rd violation	\$150.00
Any further violation	\$200.00

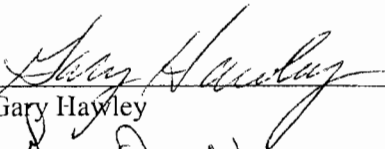
Section Q: Disposition of Monies Collected -

All monies or fines collected pursuant to this ordinance shall be paid to the Miami County Auditor and shall be deposited to the proper fund as set forth under IC-15-9-1 through 15-5-9-17 and established by this ordinance unless otherwise specified in this Ordinance.

Section R: Repeals -

This Ordinance shall repeal any and all prior Animal Control Ordinances enacted by Miami County.

Passed and Adopted by the Board of Commissioners of Miami County, Indiana this ____ day of
May, 2006 Any later discovered exhibits, copies of which will be supplied to counsel for the Plaintiff,
and the Court immediately upon their discovery.
on one reading with the rules being suspended by unanimous consent of all Miami County
Commissioners as indicated by their signatures below.



Gary Hawley

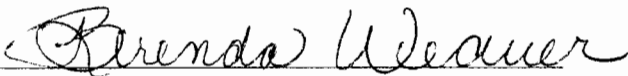


Greg Deeds



Craig Boyer

ATTEST:



Miami County Auditor
Brenda Weaver