ORDINANCE G-2015- 25

INTRODUCTION BY: MISSY MOSBY
COMMITTEE: A.S.D.

AN ORDINANCE AMENDING SECTION 6.05.040 OF THE EVANSVILLE MUNICIPAL CODE

WHEREAS, the Common Council of the City of Evansville Indiana finds it desirable to amend chapter 6.05.040 to prohibit the endangerment of domestic animals.

NOW, THEREFORE BE IT HEREBY ORDAINED by the Common Council of the City of Evansville, Indiana, that Section 6.05.040 of the Evansville Municipal Code hereby amended by adding section 6.05.040 (A) (26) as follows:

6.05.040 Prohibited acts.

(A) No person shall do the following prohibited acts:
(1) Be a custodian of a prohibited animal as identified in EMC 6.05.050.
(2) Be a custodian of, or permit, an animal nuisance, except running at large or not under restraint (see subsection (A)(4) of this section).
(3) Be a custodian of a dangerous animal; however, the exemptions provided under EMC 6.05.030(B)(15) shall also be applicable to this provision.
(4) Be a custodian of a dog that is running at large or not under restraint.
(5) Confine an animal in an area which is unclean, overcrowded, or inadequately ventilated, which poses a substantial threat to any person or animal.
(6) Deprive an animal from the opportunity for adequate exercise or access to fresh or ventilated air, or maintain a large animal in a primary enclosure (including corral) of less than 10,000 square feet per animal. The front yard of the lot shall not be used as part of the primary enclosure or be counted as part of the 10,000 square feet per animal. A different large animal or additional large animal may not be kept or maintained on the premises unless the requirements of this municipal code, including but not limited to the requirement for "agricultural" zoning, are met in all respects. If a large animal is in compliance with the previous code provisions on the date of adoption of the changes herein, the large animal may remain so long as the previous code is complied with in all respects; however, if the large animal is not in compliance with the previous code provisions on the date of adoption of this chapter, then the large animal and the premises shall comply with the provisions of this chapter, including, but not limited to, the requirement that the land be zoned "agricultural."
(7)(a) Be a custodian of an animal that has not been properly licensed pursuant to this chapter; or

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(b) Be a custodian of any animal that has not been vaccinated with a rabies vaccine approved by the State Board of Health if the animal is capable of carrying or transmitting rabies. (See IC 15-2.1-6-13 for local regulation authority.)
(8) Abandon an animal.
(9) Sell live chickens or ducklings younger than eight weeks of age in quantities of less than six to a single purchaser. This subsection (A)(9) shall not apply to 501(c)(3) organizations promoting education, agriculture or scouting activities or governmental organizations.
(10) Give away any live reptile, bird, or mammal as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement, or offer such a vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
(11) Be the custodian of an animal and fail to provide the animal with sufficient, good, and wholesome food and water, proper shelter for protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.
(12) Expose any known poisonous substance, whether or not mixed with food, so that such poisonous substance shall be liable to be eaten by a pet.
(13) Leave an animal unattended in a vehicle when conditions in that vehicle would constitute a health hazard to the animal.
(14) Fail to confine in a secure building or enclosure a female domestic animal in heat so as to prevent conception except during instances of planned breeding.
(15) Unsupervised tethering of an animal except as permitted herein. (See subsection (B) of this section and EMC 6.05.060.)
(16) No person shall fail to maintain in a sanitary manner the premises occupied by an animal, whether the animal is kept in a structure, fence, pen, or fastened, hitched, or leashed. Custodians of an animal shall regularly, and as often as necessary, maintain all animal areas or areas of animal contact to prevent unsanitary conditions on the property and to prevent odor from escaping from the property of the custodian.
(17) Methods.
(a) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause physical injury or suffering to the animal. This provision shall not prevent the use of a collar with an electrical charge to prevent escape from a yard or enclosure; however, such electrical collar shall not be the primary form of restraint. Physical restraint shall be provided as required in this chapter.
(b) No person employed to train an animal shall use alpha-rollovers, helicoptering, hanging by the collar, kicking or any other abusive methods.
(18) No person shall keep or maintain any coop in which chickens, ducks, pigeons, turkeys or other domestic fowl and poultry are kept within a distance of less than 50 feet from any neighbor's dwelling; and no person shall keep or maintain pigeons in violation of guidelines set

forth in the American Racing Pigeon Association handbook, a copy of which shall be on file with the City Clerk. Those maintaining a current membership with this club will be subject to normal periodic inspections, as provided in this chapter, by Animal Care and Control, as well as if there are any complaints.

No more than six chickens, ducks, turkeys or other domestic fowl, or combination thereof, shall be maintained at any one parcel of property. In calculating the number of chickens, ducks or other domestic fowl, only animals over eight weeks of age shall be counted.

(19) No person shall permit, provide a location for, or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(a) No person shall permit or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(b) No person shall possess animal fighting paraphernalia and a dog, cock, fowl, or bird bearing a scar, wound or injury consistent with animal fighting.

(c) No person shall attend an animal fighting contest.

(d) No person shall sell, purchase, own, harbor, give away, barter, breed, or possess any animal for animal fighting.

(e) No person shall permit anyone to use any building, shed, room, yard, ground, premises, vehicle or property, whether enclosed or not, for the purpose of animal fighting.

(f) No person shall aid, abet, assist, act as judge or referee, bet or wager money or other valuable consideration on the outcome of, be at, attend, or in any way engage in the furtherance of an exhibition of animal fighting.

(g) If the actions prohibited in this subsection (A)(19) constitute a criminal violation, the criminal violation shall be pursued instead of an ordinance violation.

(20) No person or group of persons or any for-profit or not-for-profit organization, whether for pay or other compensation or for free promotional purpose, shall conduct or allow any event involving physical contact contests between animals or persons using animals in any form or manner except those events reviewed and approved for the safety, well-being, and comfort of the animals involved by Animal Care and Control.

(21) No person shall set any type of poisonous substance or bait within the City limits that is harmful to any pet, which is contrary to the instructions set forth on the manufacturer's instructions; provided, however, that controlled programs under the direction of the County Board of Health or a licensed extermination service are excluded.

(22) Sale of Underage Animals. No puppy or kitten that is under the age of eight weeks may be offered for sale, trade or for other compensation or for free giveaway except a puppy or kitten or litters may be taken to the animal control shelter or any 501(c)(3) humane adoption agency. This subsection (A)(22) shall not apply to Animal Care and Control, any 501(c)(3) humane adoption agency, 501(c)(3) organization promoting education, agriculture or scouting activities or governmental organizations.

(23) Traps.

(a) No person shall use, place, set or cause to be set within the City, or upon lands owned by the City, any traps except cage-type live traps approved by Animal Care and Control and used for the control of nuisance animals. This shall not apply to any trap specifically designed to kill rats, mice, gophers, groundhogs, muskrats or moles so long as the owner of the real estate is aware of the location where the trap(s) are set and monitors said trap(s) at least once every 24 hours.
(b) Traps discovered by Animal Care and Control to have been unlawfully set in the City may be seized and used as prima facie evidence that a violation has been committed. Upon a determination that said traps are set in violation of this chapter, said trap(s) shall be forfeited to and disposed of by Animal Care and Control.
(24) No person shall fail to obey the provisions of this chapter or any restrictions, regulations, or orders issued by the commission pursuant to the terms of this chapter.
(25) No person shall release piranha into any stream, river or lake.
(26) No person shall recklessly, knowingly, or intentionally perform any act or omission that creates a substantial risk of injury to any domestic animal.
(B) Transporting Animals. Any animal transported in the open bed of a truck shall be tethered by a halter, and not by the neck, to the two sides of the front corners of the bed of the vehicle while the vehicle is in motion or placed in a safe contained travel carrier so as to prevent injury or danger to the animal. Tethering devices shall not be longer than three-fourths of the width of the bed of the truck.
(C) Lost or Stray Animals.
(1) Persons finding a stray animal shall notify Animal Care and Control within 48 hours of finding the animal. Animal Care and Control shall inspect or scan the animal to determine ownership. Animal Care and Control shall return the animal to its rightful owner.
(2) Any found animal shall be held for a minimum seven days before a disposition is made, unless the animal needs to be euthanized for humanitarian purposes upon the decision of a veterinarian (if available) or the Superintendent or the Superintendent's designee due to the animal's mental or physical condition to prevent suffering.
(3) Persons finding an animal are obligated to comply with all rules and regulations of this chapter pertaining to humane care and treatment of animals while said animal is in their custody awaiting return of the animal to its actual owner. After seven days, the finder may keep the animal if he obtains the necessary permits or licenses required by this chapter or upon a determination by a court of law if ownership is contested. Persons who retain the animal accept the responsibilities as a custodian of the animal.
(D) Injury Caused by Motor Vehicle to Animals. Any person operating a motor vehicle who knowingly causes injury or death to a domestic animal shall immediately notify the owner, Animal Care and Control or local authorities of the location of the animal (dial 911). [Ord. G-2015-12, passed 4-29-15. 1983 Code § 9.90.04.]

EFFECTIVE DATE.

This ordinance shall be in full force and effect following its passage by the Common Council and signing by the Mayor.

Passed by the Common Council of Evansville, Indiana, on this 28 day of September, 2015, and on said day signed by the President of the Common Council and attested by the City Clerk.

H. Dan Adams MD

Dr. H. Dan Adams, President of the Common Council,
City of Evansville, Indiana

ATTEST: Laura Windhorst

Laura Windhorst, City Clerk
City of Evansville, Indiana

Presented to me, the undersigned, City Clerk of the City of Evansville, Indiana, to the Mayor of said City, the 28 day of September, 2015, at 2 o'clock ___.m. for his consideration and action thereon.

Laura Windhorst

Laura Windhorst, City Clerk
City of Evansville, Indiana

Having examined the foregoing Ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said Ordinance, and return same to the City Clerk this 1st day of October, 2015, at 3:00 o'clock p.m.

Lloyd Winnecke

Lloyd Winnecke, Mayor
City of Evansville, Indiana