

Ordinance Number 04-16-01-01

**AMENDED AND CONSOLIDATED ANIMAL CONTROL ORDINANCE
OF BROWN COUNTY, INDIANA
(STEWART ORDINANCE)**

Instrument Book Page
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WHEREAS, it is necessary for the public peace, health and safety to provide for the control of animals in Brown County, Indiana, and to provide sanctions to insure that those responsible for the control of animals do not permit those animals to jeopardize such peace, health and safety ;

WHEREAS, the Indiana General Assembly has declared that it is the policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products;

WHEREAS, it is necessary for the well-being of animals to provide for their humane treatment and care in Brown County, Indiana, and to provide sanctions to insure that those responsible for the care of animals do not jeopardize such well-being;

WHEREAS, sanctions for violations of this ordinance are intended to increase with the danger created or the harm done;

WHEREAS, the provisions of this ordinance should be construed as supplemental and in addition to any other law, ordinance, rule or court decision;

WHEREAS, the costs and expenses associated with insuring the foregoing should properly be born by those who fail to observe the requirements of this ordinance;

WHEREAS, an ordinance to accomplish the foregoing purposes is permitted under Indiana law, including but not limited to Ind. Code §§ 36-1-3 and 36-1-4-11;

WHEREAS, the Animal Control Commission of Brown County, Indiana, has, after study and deliberation, recommended passage of the initial Animal Control Ordinance and subsequent amendments thereto;

WHEREAS, this amended ordinance adds certain provisions intended to help reduce pet overpopulation in Brown County, Indiana, and the burden on the Humane Society and the animal shelter; and

WHEREAS, this ordinance remains dedicated to the memory of Dorothy Stewart;

BE IT THEREFORE ORDAINED by the Board of Commissioners of Brown County, Indiana:

CHAPTER I. Definitions

SECTION 1.

Unless otherwise stated or apparent from the context within which they appear, the following definitions apply to all forms of the words set out below and apply throughout this ordinance:

A. "Abandon" is to voluntarily relinquish of possession of an animal with the intention to terminate ownership of the animal without transferring its ownership to any other person.

B. "Animal" is any live, non-human, vertebrate creature.

C. "Animal Control Officer" is any person employed by Brown County, Indiana, authorized to perform the duties required by this ordinance and any other applicable law.

D. "Animal Shelter" is any facility operated by or operating under contract to the county, a humane society, or a municipal corporation for the purpose of impounding or caring for animals held pursuant to this ordinance, a court order or any other applicable law. The term shall also include any agent or employee of such a facility.

E. "At-Large Animal" is any domestic animal not on the premises of its owner or not under the reasonable control of a person. The term shall not include any dog engaged in lawful hunting activities in the company of its owner or custodian.

F. "Domestic Livestock" is any animal kept for a commercial purpose. The term does not include domestic pets, or wild or exotic animals.

G. "Domestic Animal" or "Pet" is any animal kept for a non-commercial purpose. The term does not include domestic livestock, or wild or exotic animals.

H. "Exotic Animal" is any animal not otherwise defined in this ordinance. The term includes animals not commonly kept as domestic pets or livestock and not native to the North American continent.

I. "Harbor" is to permit to remain at large, to keep, to feed, to shelter or to care for an animal within or upon a person's property or property under a person's control. An animal that is fed or sheltered for three consecutive days by a person within or upon his home, enclosure, yard or place of business, or upon any premises under a person's control, is presumed to be harbored by that person.

J. "Kennel" is property or a facility in which a person: (1) owns, keeps, boards or harbors six (6) or more dogs, twelve weeks of age or older; (2) produces two or more litters per year per breed issuing from dogs owned, kept or harbored therein; or (3) offers for sale

dogs from two litters or more issuing from dogs owned, kept or harbored therein. The term does not include animal shelters, veterinary hospitals not engaged in commercial boarding or breeding, and groomers not engaged in commercial boarding or breeding.

K. "Neglect" is the failure of a person to provide an animal owned or harbored by that person with sufficient and wholesome food, water, shelter and reasonable care, including veterinary treatment, necessary to prevent suffering by the animal.

L. "Owner" is any person owning, possessing, keeping or harboring an animal.

M. "Person" is any human being, firm, association, cooperative, partnership, company or corporation.

N. "Poultry" is any domesticated bird kept for eggs or meat.

O. "Public nuisance" is any animal, other than domestic livestock, that molests, harasses or threatens persons or vehicles, attacks persons or animals, damages public or private property, causes significant discomfort to or an unacceptable health condition upon the public, or, due to sound or odor, causes unreasonable and excessive annoyance to persons to the extent it interferes with their peaceable enjoyment of private or public property. The term includes a dog that barks, whines or howls excessively, unless engaged in hunting, so as to disrupt the peace and quiet of the public.

P. "Vicious dog" is any dog that by its behavior or history presents an apparent or an immediate threat of bodily harm to a person or an animal.

Q. "Wild animal" is any animal whose species usually lives in the wild or is not domesticated.

CHAPTER II. Animal Control Commission

SECTION 1. Membership

A. The Animal Control Commission is established by the Board of Commissioners of Brown County.

B. The Animal Control Commission shall consist of seven members, all of whom are appointed by and serve at the pleasure of the Board of Commissioners of Brown County. Members shall be appointed from the following: one member from Brown County Council, one member from the Brown County Humane Society, one member from the Town of Nashville and one member from each of the county's four townships. Each of the four township members must be a resident of the township from which he or she is appointed. The members of the Animal Control Commission shall serve without compensation.

C. The Animal Control Commission shall elect its own chairperson and enact such rules as may be necessary for its organization and for the orderly and efficient conduct its business.

D. The Animal Control Commission shall meet at least once every other month. Upon proper notice, it may meet at other times as it determines necessary. Notice of all meetings shall be given to the public as provided by Indiana law.

E. Members who miss two consecutive meetings without a reasonable excuse may be removed from the Animal Control Commission by the Board of Commissioners of Brown County.

SECTION 2. Animal Control Commission - Powers, Duties & Responsibilities

A. The Animal Control Commission shall make recommendations to the Board of Commissioners of Brown County concerning proposed ordinances, resolutions, rules or regulations for the care and control of animals.

B. Subject to the approval of the Board of Commissioners of Brown County, the Animal Control Commission may enter into leases, contracts and agreements with persons, firms, public agencies, municipal governmental units or corporations to provide animal control services, facilities, vehicles and equipment which may be necessary to carry out the terms of this ordinance.

C. Subject to the approval of the Board of Commissioners of Brown County, the Animal Control Commission shall employ such persons as are necessary to the performance of its duties pursuant to this ordinance, any applicable state or federal statute or rule, or court order. The Animal Control Commission shall determine the qualifications necessary of such persons and determine the conditions of their employment. Provided, however, that the hiring, supervision and termination of Animal Control Officers shall be the sole responsibility of the Brown County Sheriff.

D. Subject to the approval of the Board of Commissioners and in cooperation with the Brown County Sheriff, the Animal Control Commission shall provide assistance in the enforcement of all statutes, rules, court orders and ordinances concerning animal care and control, and shall perform all other acts reasonably necessary to enforce the terms of this ordinance, to provide the animal control services and facilities required herein and to carry out the duties, powers and responsibilities of the Animal Control Commission.

E. An Animal Control Officer shall make a written report monthly to the Board of Commissioners of Brown County of its activities during the immediately preceding calendar month. Such report shall include, but not be limited to the total number of complaints received, the number of dog bites reported, number of warnings given (and whether they were verbal or written), citations written, the number of animals picked up,

and the number of animals impounded in the animal shelter or humane society. The report shall be made no later than the second meeting of each month and shall be provided more often if requested by the Board of Commissioners of Brown County. The reporting Animal Control Officer shall attend the meeting at which the report is to be reviewed and prepared to provide information and answer questions concerning the report and the activities of Animal Control Officers. The Board of Commissioners may, in their discretion, waive, suspend or alter this reporting requirement by motion passed by a majority vote.

F. The Animal Control Commission shall prepare and submit an annual budget to the Board of Commissioners prior to July 1 of each year, in a like manner to all county government departments.

SECTION 3 - Animal Control Officer - Powers, Duties and Responsibilities

A. The Brown County Sheriff shall have full authority over any person employed as an Animal Control Officer, including the authority to hire, supervise, instruct, assign duties to and discharge any such officer, subject to county personnel policy.

B. In the execution of his or her duties, an Animal Control Officer shall have the power to enter real property in immediate pursuit of an animal reasonably believed to be in violation of this ordinance, a state or federal statute or rule, or a court order; however, an Animal Control Office shall not enter a dwelling or the curtilage thereto without the consent of a person who resides therein unless accompanied by a uniformed law enforcement officer with a search or arrest warrant. This paragraph shall not be construed to prohibit the Animal Control Officer from approaching a dwelling and knocking on the door to make contact or speak with a resident.

CHAPTER III. Pet Identification, Dog Tax & Immunization

SECTION 1. Pet Identification

A. A person who owns a dog or cat shall provide for the identification of his or her ownership by either a tag affixed to a collar or harness worn by the dog or cat or a microchip designed to enable the owner to be contacted embedded within the dog or cat. The tag shall contain current contact information for the owner including, at minimum, the owner's name, the owner's home telephone number and a secondary telephone number.

B. A person who violates this section commits a class C ordinance violation.

SECTION 2. Dog Tax Requirement

A. Any person keeping, harboring or having custody of a dog must pay the Brown

County, Indiana option dog tax. (Ordinance No. 11-20-06-01).

B. A person who violates this section commits a Class C ordinance violation. Provided that if the person keeping, harboring or having custody of a dog that has not been spayed or neutered, and has not paid the Brown County, Indiana option dog tax, the violation is a Class B ordinance violation. Provided further that if, within thirty (30) days of the commission of the Class B ordinance violation pursuant to this section, the owner or person having custody or control of the dog submits to a Brown County Animal Control Officer a receipt or a verified statement from a licensed veterinarian that the dog has been spayed or neutered, the violation will be reduced to a Class C ordinance violation.

SECTION 3. Animals not Immunized Against Rabies

A. It is unlawful to harbor a dog, cat or ferret over the age of six months which is not immunized against rabies.

B. The Animal Control Officer shall report any person who owns or harbors a non-immunized dog to the appropriate law enforcement agency for prosecution.

C. The Brown County Health Administrator may order the destruction, quarantine or impoundment of a domestic animal that has bitten a person, or the destruction, quarantine or impoundment of any domestic animal bitten by a rabid animal, pursuant to Indiana law.

D. Any person who violates this section commits a Class C ordinance violation.

CHAPTER IV. Restraint, Control & Confinement

SECTION 1. At-Large Animals:

A. It shall be unlawful for an owner or person having custody or control of an animal to allow such animal to run at large so as to create a public nuisance.

B. An owner or person having custody or control of an animal shall not allow such animal to stray beyond his premises unless under the reasonable control of some person.

C. Working farm dogs used for tending purposes or dogs engaged in lawful hunting, trials or dog show activities, while accompanied by the owner or custodian, are excepted from this chapter.

D. An owner or person having custody or control of an animal in violation of this section commits a Class C Ordinance violation. However, if said at-large animal also creates a public nuisance, the violation is a Class B Ordinance violation.

E. In addition to any fines specified in this chapter, any person who allows or causes any animals to stray onto, or to be found upon, a public highway or other public property, shall be liable for the cost of removal and storage of said animals and notification to the owner.

SECTION 2. Female Dog in Heat

A. Any female dog in heat shall be confined in a building or some enclosure in such a manner that the female dog in heat cannot come into contact with a male dog, except for planned breeding.

B. Notwithstanding Section 1 of this Chapter, an owner or person having custody or control of any female dog not so confined commits a Class B Ordinance violation. Provided that if the animal is an at-large dog which has not been spayed and is over the age of six (6) months, the violation is a Class A Ordinance violation. Provided further that if, within thirty (30) days of the commission of a Class A Ordinance violation pursuant to this section, the owner or person having custody or control of the dog submits to a Brown County Animal Control Officer a receipt or a verified statement from a licensed veterinarian that the dog has been spayed, the violation will be reduced to a Class B ordinance violation.

SECTION 3. At-Large Dogs

A. An owner or person having custody or control of a dog shall not allow such dog to stray beyond his or her premises.

B. Notwithstanding Section 1 of this Chapter, a person who violates this section commits a Class B Ordinance violation. Provided that if the animal is an at-large dog which has not been spayed or neutered and is over the age of six (6) months, the violation is a Class A Ordinance violation. Provided further that if, within thirty (30) days of the commission of a Class A Ordinance violation pursuant to this section, the owner or person having custody or control of the dog submits to a Brown County Animal Control Officer a receipt or a verified statement from a licensed veterinarian that the dog has been spayed or neutered, the violation will be reduced to a Class B ordinance violation.

SECTION 4. At-Large Livestock

A. An owner shall not allow his or her livestock to stray beyond their premises.

B. Notwithstanding Section 1 of this Chapter, a person who violates this section commits a Class B Ordinance violation.

SECTION 5. At-Large Wild or Exotic Animals

A. An owner of a wild or exotic animal shall not allow the animal to stray beyond his or her premises.

B. Notwithstanding Section 1 of this Chapter, a person who violates this section commits a Class A Ordinance violation.

CHAPTER V. Vicious Animals, Public Nuisance & Impoundment

SECTION 1. Vicious Dog

A. A vicious dog shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of the owner or person having custody or control of such dog. Such confinement and restraint shall be sufficient to insure that persons and property will not suffer harm from such dog.

B. The owner or person having custody or control of a vicious dog not so confined, muzzled or caged commits a Class B Ordinance violation for the first offense and a Class A Ordinance violation for any subsequent offense. If the vicious dog not so confined, muzzled or caged causes any bodily injury to a person, the offense is a Class A Ordinance violation, regardless of whether there have been any prior offenses.

C. An Animal Control Officer may seize and impound any vicious dog, and if such dog is seized and impounded, the owner or person having custody or control of such dog shall be responsible for payment of all expenses arising from or related to the seizure and impoundment.

SECTION 2. Public Nuisance

A. An owner or person having custody or control of an animal shall exercise due care and control of such animal so as to prevent the animal from becoming a public nuisance.

B. An owner or person having custody or control of an animal who permits such animal to become a public nuisance commits a Class C Ordinance violation for the first offense and a Class B Ordinance violation for any subsequent offense.

SECTION 3. Impoundment, Alternative Penalty

A. Any at-large animal, unlicensed dog, vicious dog, female dog in heat that is not confined, or neglected animal, may be taken by law enforcement officers or by an Animal Control Officer and impounded in the Animal Shelter or impounded at suitable alternative facilities approved by the Commission.

B. If the owner of an impounded animal can be identified by a license tag, microchip or other reasonable means, the Animal Control Officer shall immediately upon

impoundment notify such owner by all reasonable means, including but not limited to telephone or mail of the impoundment.

C. For the purpose of notifying owners whose identities cannot reasonably be determined that missing animals may have been impounded pursuant to this ordinance, notice shall be placed weekly in a newspaper of general circulation within Brown County to that effect. The published notice shall contain the name, address, telephone number and hours of operation of the facility in which the animals are impounded to enable owners to locate and retrieve the animals. Notices individually describing impounded animals are not required.

D. Any animal that is not claimed by the owner whose identity is determined within five days of notification shall become the property of the County and may be placed for adoption or humanely euthanized.

E. No dog or cat may be placed for adoption by an animal shelter, the Humane Society or any other animal rescue group unless it has been spayed or neutered. However, if a veterinarian determines that a medical reason exists why a dog or cat should not be spayed or neutered, that dog or cat may be placed for adoption without spaying or neutering.

F. If any intact dog or cat has been impounded twice within any 12 month period, and those impoundments are due to its owner having violated any provision of this Ordinance, the twice impounded dog or cat shall be spayed or neutered within 10 days of it being returned to its owner. Within 15 days of the return, the owner shall provide proof to the Brown County Animal Control Commission in the form of a veterinarian's statement or receipt that the spaying or neutering has been done. Provided, however, that if a veterinarian provides a written determination that a medical reason exists why a dog or cat should not be spayed or neutered, and a copy of the written determination is provided by the veterinarian or the owner to the Brown County Animal Control Commission within the 15 day period, the requirements of this paragraph shall not apply. An owner who fails to have his dog or cat spayed or neutered and to provide proof of such spaying or neutering or to provide a copy of veterinarian's written determination that a medical reason exists why a dog or cat should not be spayed or neutered as required by this paragraph shall be guilty of a Class C violation of this Ordinance for each day beyond the 15th day after the dog or cat is returned to the owner and until the required proof or veterinarian's statement is received by the Brown County Animal Control Commission.

G. An owner claiming an impounded animal shall pay all costs associated with the seizure and impoundment of such animal, including all necessary treatment costs, costs of any spaying or neutering, expenses of notification, expenses associated with any legal proceedings regarding such animal, transportation fees, board fees and any daily fees established by the Brown County Humane Society Shelter or any alternative facility

approved by the Commission and used to impound such animal.

H. In addition to or in lieu of impounding an animal, a Law Enforcement Officer or an Animal Control Officer may issue to any person violating any provision of this ordinance a notice of ordinance violation. If the person has not paid the fine and all associated expenses within two weeks of receiving such notice, the Animal Control Officer may refer the violation to the Brown County Prosecutor for further action, which may include prosecution of the violation in court.

I. All dogs impounded under this Article and not registered, licensed, tagged and redeemed shall be placed for adoption or disposed of in a humane manner after the expiration of the following time periods:

- five days after notice is given to the owner per Chapter V Section 3;
- five days after impoundment when the owner is unknown; or
- at a time fixed by the Court or by law.

J. Notwithstanding any other language in this ordinance, under no circumstances may a vicious dog be placed for adoption.

SECTION 4. Impoundment for Animal Bite

A. If an animal has bitten a person, it shall be impounded in the Animal Shelter or a veterinary hospital or kennel acceptable to the Animal Control Officer, at the owner's choice and expense, for a period of ten days in order to determine whether or not the animal has rabies. If the animal dies during the period, it shall, at the owner's expense, be sent to the proper authorities to determine whether or not it was rabid.

B. An owner who fails to impound an animal after receiving notification to do so by an officer of the Animal Control Commission or the Brown County Health Department commits a Class B ordinance violation. Each day that the owner fails to impound the animal constitutes a separate violation.

CHAPTER VI. Animal Care

SECTION 1. Animal Care

A. Every owner of an animal shall see that his animal has proper and adequate food, water, shelter, protection from the weather, and medical care, and that his animal 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.

B. No person shall abandon or neglect a vertebrate animal.

C. Any person who violates this section commits a Class B Ordinance violation.

SECTION 2. Torture or Abuse of an Animal

A. No person shall torture, beat, mutilate, cruelly treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit a dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

B. A dog may be chained or tethered only subject to the following conditions:

1. The chain or tether must be no shorter than five (5) times the length of the dog, as the dog is measured from the tip of its nose to the base of its tail, and in no case shall the chain or tether be less than ten (10) feet in length.

2. In addition to the length prescribed by the preceding paragraph, if the chain or tether is attached to an overhead trolley, pulley or running line, the chain or tether must include a length at least equal to the height of the highest point on the overhead trolley, pulley or running line.

3. The chain or tether shall not weigh in excess of one-eighth (1/8) of the dog's weight.

4. The chain or tether shall have a swivel at both ends.

5. For the purpose of this ordinance, chaining or tethering shall mean to restrain a dog by tying or attaching it to any stationary object by any means, including but not limited to a chain, rope, cord, leash, pulley or running line. However, it shall not be construed to mean restraint of a dog by a human being when the human being is the only thing to which the dog is attached by a chain, rope, cord or leash.

6. The chaining and tethering restrictions contained herein shall not apply to dogs while being shown or competing in dog shows, agility trials, county fairs and like activities. Nor shall they apply to dogs while engaged with human beings in hunting activities.

C. An Animal Control Officer shall report any person who violates any of the provisions of IC 35-46-3 (Offenses Relating to Animals, as existing January 1, 2001, or its equivalent should the legislature amend, restate or recodify said offenses), to the appropriate law enforcement agency.

D. Any person who violates any portion of subsection A, above, not preempted by Indiana law commits a Class A ordinance violation.

E. Any person who violates any portion of subsection B, above, not preempted by

Indiana law, shall first be issued a written warning, be informed of what steps are necessary to correct the violation, and be given sufficient time to correct it. Any violation of subsection B, above, committed after the violator has received the initial written warning, corrective information and time for correction, shall be a Class B ordinance violation for the first offense and a class A ordinance violation for any such violation committed after being cited for a class B violation.

SECTION 3. Animal Management Fund

A. All fines, fees, costs and penalties collected pursuant to this chapter shall be deposited into a dedicated, non-reverting fund to be known as the Animal Management Fund.

B. Monies in the Fund may be spent only after approval by the Animal Control Commission.

C. This Fund shall continue until such time as it is rescinded by action of the Board of Commissioners, in which event, any monies left in the Fund shall revert to the Brown County General Fund.

CHAPTER VII - Kennels and Commercial Dog Breeding

SECTION 1. Licenses

A. A license is required to operate as a commercial kennel. Each kennel operated shall be considered a separate enterprise and each enterprise shall have a kennel license.

B. A license shall be issued when the applicant complies with all laws and regulations pertaining to the issuance of licenses and pays the required kennel licensing fee. No license shall issue to any kennel unless it is in compliance with all applicable zoning requirements.

C. A license is valid for twelve (12) months from the date of issuance and may be renewed in accordance with Section 1B above.

D. The license shall be prominently displayed on the premises of the licensed kennel.

E. The application for a kennel license must contain a statement that the applicant agrees to comply with standards set forth herein, agrees to allow inspections by animal control officers of animal and premises, and whether or not the applicant has ever been found to have committed any offense related to animals.

F. No license to operate a kennel shall be issued to anyone who has been convicted of cruelty to animals.

G. Licenses issued on the basis of false information supplied by the applicant shall be revoked and operation of the subject kennel shall be terminated upon revocation of the license.

H. The Animal Control Commission, or such other agency or person it may designate, shall be the agency to issue, or cause to be issued, licenses, maintain records and conduct and enforce the provisions of this ordinance.

I. All notices to the public, including but not limited to, classified advertisements, fliers, posters and all other media, of animals for sale shall contain the license number of the kennel license required and issued under this ordinance.

J. All records of sale shall show the kennel license number of the seller.

K. Kennel fees shall be paid through the county Plan Commission, which must approve the establishment and operation of kennels pursuant to applicable county zoning ordinances. Payment shall be tendered to the Plan Commission at the time application is made to the Plan Commission for establishment or operation of a kennel, and upon its approval to establish or operate, the Plan Commission shall deposit the kennel fees in the Animal Management Fund. If establishment or operation of a kennel is not approved by the Plan Commission, the tendered payment shall be returned to the applicant.

SECTION 2. Fees

A. Annual fees for kennels shall be as follows:

1. 6-9 dogs: \$50.00.
2. 10-25 dogs: \$125.00.
3. 26-50 dogs: \$250.00.
4. 51 -100 dogs: \$500.00.
5. 101 or more dogs: \$1,000.00.

SECTION 3. Exemptions

- A. The Brown County Animal Shelter shall be exempt from all kennel fees.
- B. Veterinary hospitals shall be exempt from all kennel license fees unless engaged in commercial boarding, excluding that incident to hospitalization, or breeding.
- C. Groomers shall be exempt from kennel license fees unless engaged in commercial

boarding or breeding.

SECTION 4. Standards for Facilities

A. For the regulation of kennels, Brown County hereby adopts the United States Department of Agriculture standards for the humane handling, care and treatment of dogs. Copies of those standards may be obtained from the Brown County Humane Society or the Brown County Animal Control Commission.

B. To be eligible for a permit, a kennel must meet the standards set forth by the United States Department of Agriculture for the humane handling, care and treatment of dogs.

C. Any violation of this section constitutes a Class B ordinance violation, and each day the violation continues shall constitute a separate violation. Violations may also result in suspension or revocation of the license to operate a kennel.

SECTION 5. Inspection of Animals and Premises

A. As a condition of obtaining or keeping a permit to operate a kennel, the licensee shall allow any Animal Control Officer, without prior notice, to inspect all facilities and animals therein at any time during the business hours of the kennel.

B. The licensee, his agents and employees, shall render such reasonable assistance to the Animal Control Officer engaged in such inspection as may be required to enable the officer to perform his or her duties. The licensee shall furnish the facilities and assistance necessary to restrain domestic animals in order that the inspection may be accomplished. The licensee shall furnish the facilities necessary to allow the officer to conduct any necessary tests and fill out all papers and forms required in the discharge of his or her duties.

C. Refusal to permit such an inspection or interference with such an inspection shall result in the immediate revocation of all licenses to operate a kennel held by the licensee.

SECTION 6. Selling/Transfer of Animals

A. It is the duty of the seller to ensure that all animals sold or otherwise transferred are healthy, parasite free, and current with regard to vaccinations at the time of sale or transfer. No animal with disease, injury, or lacking required vaccinations will be sold or transferred without full disclosure to the buyer.

B. No dog under the age of eight weeks shall be sold or transferred, unless sold with its dam.

C. Records of all sales or adoptions of animals shall be maintained by the person selling

or allowing the adoption for a period of two years. Records shall include the date of the transaction, species and breed, date of birth, sex, color and description of the animal, the name and address and telephone number of the purchaser or adopter. Records shall be available to any Animal Control Officer upon his or her request.

D. A violation of this section constitutes a Class B ordinance violation. Violations may also result in the suspension or revocation of any license to operate a kennel.

SECTION 7. Commercial Dog Breeding

A. For the purposes of this section, the following definitions shall apply:

1. "Animal rescue operation" means a person or organization:
 - (a) that accepts within one (1) year:
 - (1) more than twelve (12) dogs; or
 - (2) more than nine (9) dogs and more than three (3) unweaned litters of puppies;that are available for adoption for human companionship as pets or as companion animals in permanent adoptive homes and that are maintained in a private residential dwelling; or
 - (b) that uses a system of private residential dwellings as foster homes for the dogs.The term does not include a person or organization that breeds dogs.
2. "Commercial dog breeder" means a person who keeps, harbors or maintains within Brown County, Indiana, 20 or more unaltered female dogs that are at least 12 months of age.
3. "Hobby breeder" means a person who maintains fewer than 20 unaltered female dogs that are at least 12 months of age.
4. "Unaltered" means capable of bearing puppies.
5. "Veterinarian" means an individual licensed as a veterinarian by the State of Indiana.

B. No person shall keep, harbor or maintain within Brown County, Indiana, more than 20 unaltered female dogs that are at least 12 months of age.

C. Any person keeping, harboring or maintaining within Brown County, Indiana, 20 unaltered female dogs that are at least 12 months of age shall comply with all applicable requirements of Title 15 Article 21 of the Indiana Code and with all applicable requirements contained in the Ordinances of Brown County, Indiana, including but not limited to this Animal Control Ordinance and all planning and zoning ordinances.

D. This section shall not apply to the following:

1. The Brown County Animal Shelter.
2. The Brown County Humane Society.
3. Animal rescue operations.
4. Hobby breeders.
5. Veterinarians and veterinary hospitals for boarding incident to treatment or hospitalization.

E. Notwithstanding their exemption from the application of Title 15 Article 21 of the Indiana Code, this ordinance shall apply to the following:

1. A person who breeds at least 75% of the person's dogs as sport dogs for hunting purposes.
2. A person who breeds at least 75% of the person's dogs as service dogs or as dogs for use by the police or the armed forces.

F. This section may be enforced by a Brown County Animal Control Officer or any Law Enforcement Officer, who may issue to any person violating any provision of this ordinance a notice of ordinance violation. If the person has not paid the fine and all associated expenses of the violation within two weeks of receiving such notice, the Animal Control Officer or Law Enforcement Officer may refer the violation to the Brown County Prosecutor for further action, which may include prosecution of the violation in court.

G. Violation of any of the provisions of this section shall constitute a Class A violation as defined in this Animal Control Ordinance, which may be enforced by imposition of a civil penalty or fine of \$500.00 for each violation.

H. Violation of any provision of this section is hereby declared a public nuisance, and the County may maintain an action in court to abate said nuisance.

I. In addition, a person who violates this section may be subject to any other penalties, judgments and liabilities authorized by an ordinance of Brown County, Indiana, a statute of the State of Indiana, or both.

J. A person who violates this section shall be responsible for payment of all costs and expenses associated with its enforcement, including but not limited to court costs, any expenses of investigation, attorney fees, any expenses incurred in the seizure,

impoundment and care of any animal, and the cost of any veterinary or medical treatment.

K. All fines, fees, costs and penalties collected pursuant to this section shall be deposited into the Animal Management Fund.

CHAPTER VIII. Breeder's License

SECTION 1. License Required

A. Any person not subject to Chapter VII, above, who possesses a dog or cat with the intent to produce from that dog or cat four or more litters per residence per year for distribution by sale or gift must possess at the residence, location or other facility where the litters are to be produced a Breeder's License from the Brown County Animal Control Commission. The cost of a Breeder's License shall be \$100.00 per residence, location or other facility, which fee shall be deposited into the Animal Management Fund.

B. Failure to obtain a Breeder's License if required to do so by this Chapter is a Class B violation of this Ordinance.

SECTION 2. Consent to Inspection

As a condition of obtaining or keeping a Breeder's License, the licensee shall allow any Animal Control Officer, who shall give the licensee prior notice, to inspect all animals described in Section 1A, above, their veterinary records and the facilities and equipment used to provide for their care at any reasonable time.

SECTION 3. Assistance to Animal Control

The licensee and his or her agents and employees, shall render such reasonable assistance to the Animal Control Officer engaged in such inspection as may be required to enable the officer to perform his or her duties. The licensee shall furnish the facilities and assistance necessary to restrain domestic animals in order that the inspection may be accomplished. The licensee shall furnish the facilities necessary to allow the officer to conduct any necessary tests and fill out all papers and forms required in the discharge of his or her duties.

SECTION 4. Revocation of License

Refusal to permit or assist with an inspection or interference with such an inspection shall result in the immediate revocation of all Breeder's Licenses held by the licensee.

CHAPTER IX. Penalties

SECTION 1. Penalties for Violations

A. The following schedule of penalties shall apply for violations of this ordinance:

1. Class A violation: a fine of up to \$500.00.
2. Class B violation: a fine of up to \$100.00.
3. Class C violation: a fine of \$25.00.

B. In addition to the forgoing fines, a person who violates this ordinance may be subject to any other penalties, judgments and liabilities authorized by an ordinance of Brown County, Indiana, a statute of the State of Indiana, or both.

CHAPTER X. Costs and Expenses

SECTION 1. Costs and Expenses Recoverable

A. A person who violates this ordinance shall be responsible for payment of all costs and expenses associated with its enforcement, including but not limited to court costs, any expenses of investigation, attorney fees, any expenses incurred in the seizure, impoundment and care of any animal, and the cost of any veterinary or medical treatment.

CHAPTER XI. Miscellaneous

SECTION 1. Venue and Choice of Law

A. Proper venue for the enforcement of this ordinance shall be in a court of competent jurisdiction in Brown County, Indiana.

B. The provisions of this ordinance shall be construed using the laws of the State of Indiana.

SECTION 2. Conflicts, Repeal of Previous Ordinance and Severability

A. The provisions of this ordinance are intended to be supplemental to the laws of the State of Indiana, and to the extent that they may conflict with said laws, the laws of the State of Indiana shall control.

B. To the extent that the provisions of this ordinance conflict with any previous ordinance enacted for the care and control of animals in Brown County, Indiana, the provisions of this ordinance shall control.

C. Upon this ordinance taking effect, Brown County Ordinance Number 09-21-11-12 (amended Stewart Ordinance consolidating animal control measures) is repealed.

D. Should any provision of this ordinance be found by a court to be invalid, the remainder of the ordinance shall remain in full force and effect.

SECTION 3. Application

A. This ordinance shall apply throughout Brown County; provided, however, that absent an agreement duly entered between the county and any city, town or village within the county which by law has been given the express authority to regulate and license animals, this ordinance shall not apply within the corporate limits of any such city, town or village.

B. Should any city, town or village within the county which by law has been given the express authority to regulate and license animals determine that it wishes this ordinance to apply within its corporate limits and enter into an agreement with the county so providing, this ordinance shall then apply and be enforced within those corporate limits.

SECTION 3. Citation

A. This ordinance also may be cited and referred to as the "Stewart Ordinance."

CHAPTER XII. Effective Date

A. This ordinance shall be effective upon its passage and publication as required by law.

B. This ordinance is the Brown County Animal Control Ordinance in effect as of the date of approval shown below, except that it has added a penalty provision to Chapter V, Section 3, subsection F. The amendment is included herein for the convenience of the public and shall become effective when notice of it is published and recorded according to law. In all other respects the existing Brown County Animal Control Ordinance continues in full force and effect.

APPROVED AND ORDAINED by the Board of Commissioners of Brown County, Indiana this 19th day of December, 2012.

BOARD OF COMMISSIONERS OF BROWN COUNTY, INDIANA

[Signature]
John Kennard, President

[Signature]
Darrell Kent, Vice-President

[Signature]
Mary Fouch, Commissioner

ATTEST:

[Signature]
Glenda Stogsdill, Auditor DKP