

# ANIMAL CONTROL ORDINANCE

## ORDINANCE NO. 2022-07 AMENDING THE ANIMAL CONTROL ORDINANCE 2022-02

### In Cass County, Indiana

#### **95.00 DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED ANIMAL.** The voluntary relinquishment of possession by the owner with the intention of terminating his/her ownership, but without vesting possession in any other person.

**ANIMAL CONTROL BOARD.** Defined in 95.01.

**ANIMAL SHELTER.** Any animal shelter established by any lawful authority in any city or town within the county, or by the action of the Board of Commissioners or County Council in the county, to keep, care for or legally dispose of dogs, cats and other animals impounded as provided for herein.

**NON-IMMUNIZED ANIMAL.** Any animal over six (6) months of age and which is required by law to be immunized against rabies.

**PEACE OFFICER.** Shall include, but is not limited to, the County Sheriff, his or her deputies, the marshal of every town, the police officers of every city, the constable of every township, members of the state's police force and game wardens and animal control wardens.

**VICIOUS ANIMAL.** Any dog, cat or other animal which is known to have an inclination to attack human beings or dogs, cats or other animals, except dogs so trained by duly constituted police or law enforcement authority.

#### **95.01 ANIMAL CONTROL BOARD; ESTABLISHMENT**

(A) An Animal Control Board is established by the Board of Commissioners of Cass County, Indiana and the Board is given all authority to determine policy matters pertaining to animal control and protection for Cass County, Indiana; however, the Animal Control Board shall not set policy in conflict to the provisions of this chapter nor in conflict of the laws of the State of Indiana. Further, the Animal Control Board shall be funded by the funds presently set forth in the Cass County Sheriff's budget and therefore, the funds shall be within the Cass County Sheriff's budget and placed within a budget for the Animal Control Board.

(B) The Animal Control Board shall be an unbiased board consisting of three (3) members

whose terms shall each expire before a period of one (1) year.

(C) The individuals to serve upon the Board shall be appointed by the Board of Commissioners of Cass County, Indiana.

### **95.02 ADOPTION OF INDIANA STATUTORY LAW BY REFERENCE**

(A) All laws of the state of Indiana pertaining to the regulation of control of dogs, cats or other animals, including but not limited to, their ownership, licensing, harboring, abandonment, running at large, rabies control and quarantine, pursuit capture, confinement, the prevention and control of diseases of domestic animals as defined, and the administrative rules and regulations of the Indiana State Board of Health, and unlawful acts relating thereto not inconsistent herewith, are made a part hereof this ordinance.

(B) The provisions of this chapter are not to replace such laws, but are to be considered supplementary and in addition thereto and fully enforced where not inconsistent with the laws of this state.

### **95.03 LICENSING OF KENNELS**

Except in certain emergency/exigent circumstances for short term care of dogs caused by certain unforeseen accident, acts of God or emergency situations where the care of more than five (5) dogs is essential for the health of the dogs, any person who harbors or keeps any number of dogs over five (5) of at least six (6) months of age requires a kennel license fee of \$30.00 annually. Said license shall be obtained at the office of the County Clerk. Dogs kept in kennels for breeding, boarding, or training purposes shall pay a kennel license fee. Persons maintaining a kennel without paying an annual license fee by a deadline of May 10<sup>th</sup> or 30 days after ownership/harboring at a premise will be subject to \$25.00 fine per dog (deposited into Animal Control Fund).

### **95.04 NOISE; RUNNING AT LARGE**

In addition to violations hereinafter contained within this chapter, the following shall be violations of this chapter;

(A) No person who owns, harbors, or keeps a dog shall permit the dog to disturb other residents of Cass County by allowing it to continuously bark, yelp, howl or make any other noise.

(B) No person who owns, harbors, or keeps a dog, cat or other animal shall permit such dog, cat or other animal to run at large or roam the countryside away from the premises where the animal is usually kept except when under the control of the owner and while the animal is participating in gaming, hunting, or training with the permission of the owner of the property.

## 95.05 ANIMALS PROHIBITED INSIDE PUBLIC BUILDINGS

It shall be unlawful and a violation of this chapter for any person owning, harboring, or having custody, possession, care or control of any animal to take or allow such animal on or inside any public building or premises in the county, unless such animal is: (1) a dog trained to assist, aid, or provide therapy to disabled persons, (2) is licensed or certified by a state or local government, and (3) is actually being used for the purpose of assisting, aiding, or providing therapy to such person.

## 95.06 IMPOUNDMENT

*(A) Capture.* Any animal may be captured and impounded by any peace officer if the animal:

- (1) Is a menace to persons or other animals;
- (2) Is found to be Running At Large as described in Section 95.04(B) above;
- (3) Is suffering or reasonable suspected to be suffering from an infectious or contagious disease;
- (4) Causes serious annoyance or disturbance to persons in the neighborhood by habitual howling, yelping, barking, meowing or otherwise;
- (5) Is kept in an unsanitary manner thereby causing odors which are annoying and disturbing to the persons in the neighborhood;
- (6) Is treated by the owner or other in a cruel and inhumane manner;
- (7) Is left in extreme weather conditions and temperatures – including a heat advisory, wind chill warning, or tornado warning that has been issued by a local or state authority;
- (8) Is left outside without access to adequate shelter, food, water, space, or bedding;
- (9) Is found to be an abandoned animal;
- (10) Is required by court order to be captured and impounded;
- (11) Is otherwise provided for and required by this chapter.

*(B) Care of impounded animals.* All animals impounded shall be given proper care, food, and medicine until disposed of or released as hereinafter provided. The shelter keeper, or his or her assistant, shall make a record in a book kept for such purposes of the breed, color, size, sex of the animal, the name and address of the owner or keeper of the dog, and any other facts serving to identify the dog, the record shall be open to public inspection.

*(C) Redemption and sale of impounded animals: destruction of diseased animals.*

(1) If the person owning, keeping or harboring the animal which has been impounded, notifies the shelter keeper within five (5) days of their claim to the animal, the shelter keeper shall permit the person to redeem the animal after paying the county penalties (**95.20 PENALTY**) and the costs of sheltering and maintaining the animal (to be computed at the current rate of care and fees in the shelter) during which the animal was impounded. Valid documentation of up-to-date rabies vaccination must be presented for release of animal along with paid receipt of fines imposed. I.C. 35-46-3-1 (Harboring a non-immunized dog).

(2) Licensed/Owned/Identified dogs shall not be redeemed by any person other than the owner until the expiration of five (5) days past the impoundment. In the event that the owner

does not redeem their animal during the five (5) day period previously set forth, the animal becomes the property of the shelter and may be adopted to anyone upon paying the shelter and maintenance fees, plus surgically rendered incapable of reproduction (if not previously completed) before the release of the animal. The cost will be at the new owner's expense.

(3) Any animal impounded, unidentified, and not claimed by a proven said owner within the five (5) day period, may be managed by shelter personnel for determination of adoptability (If intact animal, the animal must be spayed-neutered at the expense of the new owner, before the release of the animal from the shelter) or humanely destroyed by euthanization.

(4) ANY animal that appears to be suffering from infectious or debilitating diseases or deemed a rabies suspect shall NOT be released, but shall be forthwith humanely destroyed by euthanization. If the animal is deemed a rabies suspect the remains will be disposed of in a manner according to Indiana Rabies State Control Guidelines, including instructions if human exposes is suspected.

#### **95.07 ANIMAL BITE REPORTING**

It is and shall be the duty of a physician in attendance on every case of a human being bitten by a dog, cat or other animal to make a report thereof to the Cass County Health Department, if no physician is in attendance, if an adult, it shall be that person's duty to make the report; if the person bitten is a minor, it shall be the duty of the parent or guardian to make the report.

#### **95.08 CONFINEMENT REPORTING**

It shall be the duty of the owner or keeper of any dog, cat or other animal known to have attacked or bitten any human being, and it shall be the duty also if any peace officer or the operator of any animal shelter having custody of any such animal, to keep the dog, cat or other animal confined for a period of not less than fourteen (14) days after the day on which the attack or bite occurred. The owner or person having had the custody shall immediately make a report to the county's Health Department when and if the animal dies. If the animal lives beyond the period, that fact will also be reported.

#### **95.09 THREE STRIKE RULE**

Any dog, cat, or other animal that is found responsible for injuring a human being or another dog, cat, or other animal a total of three times during the dog, cat, or other animal's lifetime, shall be impounded permanently or humanely destroyed by euthanization.

#### **95.10 EUTHANIZATION OF ANY DOG, CAT, OR OTHER ANIMAL THAT SERIOUSLY INJURES OR KILLS ANOTHER ANIMAL OR HUMAN BEING**

Any dog, cat, or other animal that seriously injures or kills another animal or human being, whether on the owner's or keeper's own property or the property of another, shall be immediately impounded and humanely destroyed by euthanization.

## **95.11 RABID ANIMALS; NON-IMMUNIZED ANIMALS; QUARANTINE**

(A) (1) No person shall harbor any dog, cat or other animal affected with rabies or allow them to run at large within the county. **(PENALTY 95.20).**

(2) Any animal found to be rabies suspect and having been in human contact shall be addressed by proper authorities and said animals handled according to Indiana Rabies State Control Guidelines.

(3) It shall be unlawful for any person to harbor any non-immunized animals required to be rabies vaccinated by the State of Indiana. Any person who shall violate the provisions of this section shall be guilty of an ordinance violation and upon conviction thereof shall be fined in accordance with PENALTY 95.20.

(B) During the period under which the county or any area thereof is under lawful quarantine by the Indiana State Veterinarian, it shall be unlawful for the owner or keeper of any dog, cat or other animal to permit the animal to leave the premises where usually kept, unless on leash or under effective control necessary to prevent it from coming in contact with any other animal or any person.

## **95.12 VICIOUS ANIMALS**

(A) (1) It shall be unlawful for any person to own or harbor a vicious animal without keeping the animal securely confined on the owner's or keeper's premises and under the restraint such that persons lawfully on the premises, or elsewhere, may not be attacked or bitten by the animal. The premises where the animal is kept shall be adequately posted with warning signs indicating the presence of such an animal.

(2) It shall be unlawful for any person, excepting a duly constituted peace officer engaged in the discharge of a duty imposed upon him or her by the laws of the state, or by the laws or postal regulations of the USA, to enter the premises or fenced area so posted, without the permission of or in the presence of the owner or keeper of the known vicious animal.

(B) Any person harboring such a vicious animal, who shall violate this section with the result that death or bodily injury is inflicted upon a human being at a time and place where the injured person had a right to be, shall be guilty of an ordinance violation and upon conviction shall be fined in accordance with PENALTY 95.20 and the animal shall be euthanized in accordance with section 95.10.

## **95.13 CRUELTY TO ANIMALS**

It shall be unlawful for any person to deliberately starve, torture, beat or ill-treat any dog, cat or any other animal. Any person who shall violate the provisions of this section shall be guilty of an ordinance violation and upon conviction thereof shall be fined in accordance with PENALTY 95.20.

## **95.14 TEASING AND TORMENTING ANIMALS**

It shall be unlawful for any person to annoy and tease persistently, any dog, cat or other

animal thereby causing the animal to become irritated and vicious. No person who is attacked or bitten by any dog, cat or other animal shown or proven to have been so teased or annoyed by such person, nor anyone having a derivative claim by reason of injury to the person, will have any right of action to recover damages from the owner or keeper of such an animal. PENALTY 95.20.

#### **95.15 FEEDING ANIMALS**

It shall be unlawful to fail to feed adequately, or to feed an animal unsuitable or unhealthy food, or to provide the animal with stagnant or unclean water to drink and which is likely to produce disease in the animal. PENALTY 95.20.

#### **95.16 POISONING ANIMALS**

It shall be unlawful for any person with the intent to destroy or kill any dog, cat or other animal to feed the dog, cat or other animal, or animal at large, any poisoned food or to leave poisoned food about where it may be found and eaten or consumed by any such animal. PENALTY 95.20.

#### **95.17 ENTICING ANIMALS; TRESPASSING**

(A) No person shall entice any licensed/owned dog away from the premises of the person owning, keeping or harboring the same, or entice any such licensed/owned dog from any highway, street, alley or public place in this county with the intention of depriving the owner, keeper or person harboring the same, of the possession thereof except as authorized in this chapter. PENALTY 95.20.

(B) No person shall enter or invade the private premises of another to capture, entice or take any dog, cat or other animal, out of the enclosure or premises of the person harboring the same, or molest or seize any such dog, cat or other animal, anywhere while the same is accompanied by his/her owner, keeper or custodian; or bring within the county any dog, cat or other animal, for the purpose of impounding or otherwise disposing of the same, or collecting any fee or reward for the return thereof, except as provided in this chapter. PENALTY 95.20.

#### **95.18 NON-RESIDENT OWNERS**

The provisions of this code, except as to those animals having rabies, who run at large, or who injure or kill another animal or human being, shall not apply to animals owned by a non-resident party passing through the county and having them under restraint.

#### **95.19 CONSTITUTIONALITY**

In the event any section of this chapter or part thereof is decided by any court of lawful jurisdiction to be unconstitutional or invalid for any reason, the adjudication shall not affect the validity of this chapter as a whole or any other portion thereof which can be given reasonable effect without the provisions held to be unconstitutional or invalid.

**95.20 PENALTY**

Any person who violates any duty imposed by these regulations or commits an act declared to be unlawful and for which no specific penalty is prescribed or provided by the laws of the State of Indiana, shall be guilty of an ordinance violation and upon conviction shall be responsible for court costs, reasonable attorney’s fees, and fined for each such offense as follows:

- \$100.00 shall be fined for the first (1<sup>st</sup>) offense;
- \$250.00 for the second (2<sup>nd</sup>) offense within twelve (12) months of the first (1<sup>st</sup>) offense;
- \$500.00 for the third (3<sup>rd</sup>) or subsequent offense within twelve (12) months of the second (2<sup>nd</sup>) offense.

The Cass County Attorney is authorized to negotiate fines.

All penalties, court costs, fines, and fees shall be paid at the County Clerk’s Office and all monies collected for penalties, court costs, fines, and fees shall be deposited into an Animal Control non-reverting fund.


**95.21 PRIOR ORDINANCES**

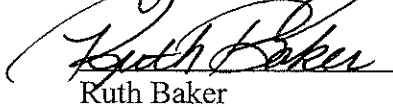
This Ordinance supersedes any prior Animal Control ordinance.

PASSED AND ADOPTED by the Board of Commissioners of the County of Cass,

Indiana, this 15<sup>th</sup> day of August, 2022 in lawful session duly assembled.

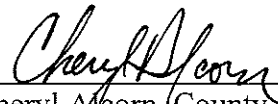
CASS COUNTY BOARD OF COMMISSIONERS:

  
\_\_\_\_\_  
Ryan Browning

  
\_\_\_\_\_  
Ruth Baker

\_\_\_\_\_  
Michael Stajduhar absent

ATTEST:

  
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Cheryl Acorn, County Auditor