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**ORDINANCE 2021-10**

**AN ORDINANCE TO ESTABLISH THE COMMUNITY CAT PROGRAM  
WITHIN THE CITY OF AUBURN, INDIANA**

**SUMMARY**

This Ordinance amends Chapter 90 of the Auburn City Code to establish the Community Cat Program in Section 90.42 and shall renumber sections 90.42 and 90.43 of Chapter 90 accordingly.

The new section 90.42 shall be entitled "Community Cats".

The new section of the Auburn City Code shall establish a program to allow participants, in coordination with the City and animal welfare organizations to confine free roaming stray cats and arrange a surgical sterilization, and other related services to assist in humanely controlling the stray and feral cat population within the community.

The text of this Ordinance shall be published in a newspaper of general circulation upon passage and a copy of this Ordinance shall be placed on the City of Auburn, Indiana website located at [www.ci.auburn.in.us](http://www.ci.auburn.in.us) and at the office of the Clerk-Treasurer during normal business hours. This Ordinance is available to the public upon request at the Clerk-Treasurer's Office.

6/24/2021

\_\_\_\_\_ Recorder's Office

  X   Publish Public Hearing

\_\_\_\_\_ Auditor's Office

7/6/2021 @ 6PM

\_\_\_\_\_ Clerk's Office

  x   Publish O/R after adoption

\_\_\_\_\_ Other

\_\_\_\_\_

  Website  

  PD  

  Humane Society

**ORDINANCE NO. 2021-10**

**AN ORDINANCE TO ESTABLISH THE COMMUNITY CAT PROGRAM  
WITHIN THE CITY OF AUBURN, INDIANA**

WHEREAS the City of Auburn, Indiana desires to enact a Community Cat Program; and

WHEREAS, the purpose of the Community Cat Program is to help control the Population of stray and feral cats within the community by arranging for surgical sterilization, ear tipping, and vaccination for rabies and other related humane services; and

WHEREAS, Once sterilized, cats no longer have new litters of kittens and their numbers decrease naturally and stably over time; and

WHEREAS, the Community Cat Program reduces or eliminates undesired behaviors: These include roaming, yowling, spraying, and/or fighting, which all generally cease after sterilization; and

WHEREAS, the Community Cat Program vaccinates against rabies. These vaccinations protect the cat, community members, and other animals coming into contact with them, leading to healthier communities; and

WHEREAS, the Community Cat Program will serve to assist animal welfare in the distribution of resources and help save the lives of the pet population and provide for a more controlled environment that shall provide benefits to the community as a whole;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF AUBURN, INDIANA,**  
**that the Community Cat Program is hereby implemented and assigned as Chapter 90.42 of**  
**the Auburn City Code. The Chapter 90.42 of this ordinances is the new section regarding**  
**the community cat program. The remainder of the Ordinance is a re-statement and**  
**renumbering/ codification of the chapters.**

**That attached as Exhibit “A” is the Community Cat Program as codified in the**  
**Auburn City Code.**

**BE IT FURTHER ORDAINED** that this ordinance shall be coifed as set forth in Exhibit "A" and become part of Chapter 90 of the Auburn City Code.

**BE IT FURTHER ORDAINED** that all other provisions of this Ordinance shall be in full force and effect upon proper public hearing, passing by the Common Council, signing by the Mayor, and proper publication. This ordinance shall be available at [www.ci.auburn.in.us](http://www.ci.auburn.in.us). The Ordinance shall also be available to the public in booklet form upon request and the original passed ordinance shall be maintained by the Office of the Clerk-Treasurer of the City of Auburn, Indiana.

**PASSED AND ADOPTED** by the Common Council of the City of Auburn, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
James Finchum, Councilmember

ATTEST:

\_\_\_\_\_  
Patricia Miller, Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
PATRICIA M. MILLER, Clerk-Treasurer

APPROVED AND SIGNED by me this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MICHAEL D. LEY, Mayor

VOTING:

AYE

NAY

Kevin Webb  
*President*

James Finchum

Dennis Ketzenberger

Natalie DeWitt

Dennis K Kruse II

David Bundy

Michael Walter

## **90.01 DEFINITIONS**

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

- **ANIMAL**

Domestic animal unless otherwise noted.

- **ATTACK**

A sudden, unprovoked, violent assault, which causes serious physical injury.

- **DOMESTIC ANIMAL**

Any animal commonly referred to as a pet including, but not limited to, dogs, cats, fish, guinea pigs, potbellied pigs, hamsters, some lizards and caged birds.

- **FARM ANIMALS**

Those animals which are kept for work and/or food production including, but not limited to, horses, cows, pigs, sheep, chickens, llamas, ducks, and geese.

- **LEASH**

A restraint device which, when used properly, will not allow an animal to move greater than twelve (12) feet from a person.

- **NUISANCE**

That activity which impairs or impedes the enjoyment of others which includes barking dogs, excrement left uncleaned, or anything that offends the sensitivities of a reasonable person.

- **RUNNING AT LARGE**

Not confined on the property of an animal's owners so as to prevent people, other than the owner, family, or invitees, from accidental contact with the animal.

- **TRESSPASSER**

Any person, other than a minor under the age of 14 years, who comes onto the physical property of another without the permission or request of the owner or duly constituted occupant of the property.

- **RESTRAINED**

To control the actions or behavior of another by force to stop them from doing something.

- **WILD OR EXOTIC ANIMALS**

Those animals which are defined by the state or federal government and require state or federal licenses or permits.

#### **90.02 DOGS**

- A. No owner or master of any dog shall allow it to roam beyond the owner's property unattended by the custodian or owner or the owner's agent.
- B. It shall be unlawful for any person to harbor or keep any dog which barks in a loud and frequent or habitual manner. Any person who allows any dog to habitually remain and be lodged within its house, store, enclosure, or yard shall be considered to harbor the dog within the meaning of this chapter.
- C. It shall be unlawful for any person to harbor or keep any dog which causes pollution from its excrement by being caged on the premises of any person.

#### **90.03 ANIMALS AT LARGE**

- A. It shall be unlawful for any person or corporation owning, possessing, harboring, or having the care of any animal to allow the animal to run at large on the streets of this city unless restrained and controlled.
- B. "ANY ANIMAL" shall be defined to include, by way of description and not limitation, cattle, horses, mules, swine, sheep, goats, dogs, cats, and poultry.
- C. The Auburn Police Department is authorized and directed to take up and impound any animal found roaming at large within the corporate limits of the city.

#### **90.04 CERTAIN ANIMALS PROHIBITED**

- A. No person shall keep, stable, maintain, or harbor any poultry, horses, mules, swine, sheep, goats, ponies, or animal of the bovine species within the city. However, this section shall not be construed to prohibit the use of horses and ponies upon the public streets, nor the transport of any of these animals in vehicles over the public streets.
- B. No person shall permit any of the animals mentioned in (A) above to pasture within the city limits.
- C. It shall be the duty of the representative of the Board of Public Works and Safety to take up and impound any animal found in the city in violation of this section.
- D. Specifically excluded from this chapter, as to the harboring of animals, are any doctor of veterinary medicine who regularly practices his profession and skill within the city limits; the grounds occupied by the DeKalb County Free Fall Fair Association that is bounded by Thirteenth Street extended on the north, Cedar Creek on the east, Eighteenth Street on the south and Union Street on the west, excluding only therefrom Evergreen Cemetery; any person who, upon passage of this chapter, is now harboring chickens and poultry for their own personal use within the city limits; and any person who, upon the passage of this chapter, now stables horses for their personal pleasure within the city limits.

### **90.05 APPROPRIATE SHELTER**

No person shall confine or allow his or her animal to remain outside without access to appropriate shelter from the elements

Every owner and or keeper of a domesticated animal in Auburn, Indiana shall see that such animal is kept clean, sanitary and healthy and is not confined so as to be forced to stand, sit or lie in its own excrement; the person(s) responsible for the animal(s) shall regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or area of animal contact as set forth herein.

An owned domestic dog, cat, or other allowed domestic animal within the City of Auburn shall be brought inside a home, building, or other suitable dwelling within 30 minutes of the onset an active weather warning issued by the National Weather Service affecting Auburn, Indiana. If an owner/guardian is not present to rectify the situation a police officer may impound the animal on the spot for its health and safety.

### **90.06 HITCHING OR TYING ANIMALS**

Every owner or keeper of a domesticated animal in Auburn, Indiana shall see that such animal shall not be tethered by use of a choke collar, or on any collar too small for the size and age of the animal, not by any rope, chaining or cord directly attached to the animal's neck, nor by a leash less than twelve (12) feet in length, or of such unreasonable weight as to prevent the animal from moving about freely.

### **90.07 FOOD AND WATER**

Every owner or keeper of a domesticated animal in Auburn, Indiana shall see that such animal has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move freely.

### **90.08 VACCINATIONS; TAGS**

State law requires rabies vaccine on ALL animals. Cats and dogs over the age of six months must be vaccinated by a licensed veterinarian for rabies. Dogs and cats must have a current rabies vaccination. Both cats and dogs must wear a current rabies tag at all times attached to a properly fitted collar, quick release collar or harness.

### **90.09 MEDICAL CARE**

All animals shall be provided with necessary medical care in addition to the required rabies vaccination.

Auburn City Attorney 06/01/2021

### **90.10 REMOVAL OF EXCREMENT**

Persons responsible for an animal shall immediately remove the animal's excrement from public lands or from the property of another, excepting a blind person working with a guide dog.

Any person who violates any provision of Section 90.10 shall upon conviction be fined in the amount of \$50.00.

### **90.11 SANITATION**

All animals, where kept inside, or in a pen, tied, fastened, hitched, leashed, or enclosed in a fence, shall be kept in a sanitary manner. The persons responsible for the animal(s) shall regularly, and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact.

### **90.12 WILD OR EXOTIC ANIMALS PROHIBITED**

No wild or exotic animal shall be kept within the city without the necessary state and/or federal permits.

### **90.13 RESTRAINT OF ANIMALS**

All animals shall be properly restrained as defined in this chapter.

### **90.14 CRUELTY TO ANIMALS**

No person shall beat, cruelly treat, neglect, torment, overload, overwork, or otherwise abuse any animal except that reasonable force employed to drive off vicious or trespassing animals.

### **90.15 FIGHTING ANIMALS**

No person shall permit or conduct any dog fight, cock fight, or other combat between animals or between animals and humans.

### **90.16 POISONOUS BAIT**

No person shall set any type of poisonous substance or bait within the city limits that is deemed harmful to any domestic animal, provided that controlled programs under the direction of the county board of health or a licensed extermination service may be excluded.

### **90.17 MOTOR VEHICLE-CAUSED INJURIES**

Any person operating a motor vehicle who causes injury or death to an animal shall stop at once, assess the extent of injury, and immediately notify the owner or Police Department of the location of the animal.



#### **90.18 UNATTENDED ANIMALS AND ANIMALS IN VEHICLES**

No animal shall be left unattended in a public place within the City limits of Auburn, Indiana. No animal shall be left unattended in a vehicle when conditions in the interior of such vehicle may constitute a health hazard to the animal or jeopardizes the safety of the animal.

#### **90.19 TRAINING METHODS**

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. Prohibited devices include, but are not limited to, electrical prods and electrical (shock) collars.

#### **90.20 ANIMALS IN HEAT**

Every female dog or cat in heat shall be controlled so as to prevent conception except during instances of planned breeding.

#### **90.21 ABANDONMENT**

No person shall abandon or cause to be abandoned any animal anywhere within the city limits in any public or private place, way, or building.

#### **90.22 ANIMALS AS PRIZES OR INDUCEMENTS**

No person shall sell, offer for sale, trade, barter or give away any live animal, bird, or reptile as a prize for, or use such as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter any business establishment or enter into any business agreement whereby the offer was made for the purpose of attracting trade, for business other than establishments selling animals as their primary business.

#### **90.23 PUPPY AND KITTEN SALE OR GIVEAWAY**

No puppy or kitten which is under the age of eight weeks may be offered for sale, trade, or for other compensation or free giveaway (except a puppy or kitten litter or litters may be taken to the animal shelter during posted hours).

#### **90.24 DYED ANIMALS**

No person shall sell, offer for sale, trade, or barter any animal whose appearance has been chemically altered by dyes or staining.

#### **90.25 ANIMALS AS NOVELTIES**

No person or establishment shall sell, offer for sale, barter, or give away chicks, goslings, ducklings, or other fowl as pets or novelties. This section shall not apply to the sale of farm animals at the DeKalb County Free Fall Fair.

## **90.26 ANIMAL EVENTS PROHIBITED**

No person or group of persons or any profit or nonprofit organization, whether for pay or other compensation or for free promotional purposes, shall conduct or allow any event involving 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 the Board of Public Works and Safety.

- A. This provision shall not prohibit events authorized by the DeKalb County Fair Association, Inc conducted in accordance with health regulations for exhibition of domestic and farm animals in the state, or shows, rides, and concessions approved by said association.
- B. No event, ride, and/or concession shall be exempt from the provision of 90.22 and 90.25.

## **90.27 DESTRUCTION OF ANIMALS**

No person other than a duly authorized agent of the Police Department may destroy any domestic animal within the city limits, provided this provision shall not apply to the following:

- A. A licensed veterinarian;
- B. Those persons acting in immediate self-protection; or
- C. City police officers or firemen acting to prevent undue suffering.

## **90.28 NOISY DOGS**

No person shall allow the continuous barking, yelping, whining, or howling of a dog. Should this behavior continue in excess of 20 minutes, the police officer may take steps immediately to correct the situation and cause the noise to be abated, either through issuance of a citation or impounding the animal if no owner or agent can be found at the time of the disturbance.

## **90.29 INTERFERING WITH ENFORCEMENT**

No person shall interfere with the Auburn Police Department Officers in the pursuit of his/her duties as an officer.

## **90.30 FARM ANIMALS**

No resident of the city may board or raise any farm animals within the city corporation limits without the express written authorization of the Board of Public Works and Safety.

## **90.31 NUISANCE ANIMALS PROHIBITED**

No person shall own or harbor an animal which creates a public nuisance. This shall include animals which are used for dog fighting.

## **90.32 VICIOUS ANIMALS PROHIBITED**

- A. No person shall own, keep, or harbor a vicious animal within the city, provided this section shall not apply to animals under the control of a law enforcement or military

agency. For the purpose of this section, an animal may be declared vicious by the Police Department or Board of Works by applying any of the following criteria:

1. The animal has attacked a person or persons and the attack was unprovoked.
2. The animal exhibits vicious propensities in present or past conduct including, but not limited to, conduct such that the animal has attacked or bitten another individual.
3. The animal has inflicted injuries to a person creating a substantial danger to the health and life of the victim.
4. The animal could not be controlled or restrained at the time of the attack to prevent the occurrence.
5. The destruction of the animal is necessary to preserve the public health, safety and welfare.
  - B. Whenever an animal is declared vicious, the animal shall be immediately quarantined and the Police Department shall notify the owner of said animal of the declaration. Such notice shall be served either in person or by certified or registered mail. The owner shall be notified and they must appeal the declaration to the Board of Public Works and Safety within five (5) days of said notice or said animal will be humanely destroyed at the direction of the Police Department at the owner's expense.
  - C. The appeal shall be made to the Board of Public Works and Safety by delivering a letter requesting said appeal to the office of the Clerk-Treasurer at City Hall. Thereafter, a hearing shall be held before the Board at the next regularly scheduled meeting or at a special meeting in accordance with the provisions of Section 90.33. Any decision by the Board of Public Works and Safety may be appealed to a county court of competent jurisdiction. Such appeal must be brought within ten (10) days after receipt of the written decision of the Board of Public Works and Safety. During the period that the animal is held in custody, the expense of said custody shall be the responsibility of the owner of the animal.
  - D. Notice of appeal shall act as a stay of the Board of Public Works and Safety's decision. However, the animal shall remain in custody at the expense of the owner during this period.

### **90.33 HEARINGS**

All hearings before the Board of Public Works and Safety shall be conducted according to the State Trial Rules and the rules of evidence so as to provide all parties certain due process of law.

- A. The rules of evidence may be relaxed by stipulation of the parties.
- B. All hearings shall be recorded.
- C. All witnesses shall be sworn.
- D. The Board of Public Works and Safety and the City Police or other Department Prosecuting the matter before the Board of Public Works and Safety shall be represented by separate legal counsel.

- E. The decision of the Board of Public Works and Safety shall be final and presented to the animal's owner in writing.

### **90.34 STRAYS**

Where there is no apparent owner of an animal, the Police Department shall place the animal at the DeKalb Humane Society shelter.

### **90.35 RIGHT OF ENTRY**

The police may use any force necessary to remove any animal locked in a closed vehicle if the animal appears to be in distress and/or when the ambient temperature is eighty (80) degrees Fahrenheit or above outside the vehicle.

### **90.36 RIGHT OF EUTHANASIA**

An animal may be euthanized at any time, when, in the judgment of the police or DeKalb Humane Society it is determined that:

At the scene of an accident an animal is obviously injured beyond medical help, or vicious, and no traceable form of identification is displayed on the animal;

An animal presented to the DeKalb Humane Society is obviously injured beyond medical help, or exhibits obvious signs of infectious disease or parasite infestation that would impose a health risk to animals or parasite infestation that would impose a health risk to animals housed in the shelter, or that exhibits symptoms of malignancy, without a traceable form of identification.

### **90.37 ANIMAL TRAPS; REQUIREMENT AND PROHIBITIONS**

It shall be unlawful for a person to use, place, set or cause to be used, placed, or set any leg-hold trap upon any land or waters in the city unless properly licensed or authorized by the State of Indiana.

It shall be unlawful for any person to destroy, move, or alter any cages or compartments owned by the Police Department used to capture stray animals.

### **90.38 OPEN FEEDING OF ANIMALS**

It shall be unlawful for a person to openly place food and/or refuse out for animals that is spoiled and/or creates a pungent or noxious odor that can be distinctly detected beyond the property line of the owner or resident of a property. It shall be unlawful to feed animals on public property or on other people's property, with the exception of the feeding of birds.

### **90.39 MAINTENANCE OF RESIDENCE**

It shall be unlawful for a person to maintain a residence in which animals reside, in such a manner as to cause pungent or noxious odors that can be distinctly detected beyond the property line of the residence.

**90.40 COSTS** All costs for sheltering an animal during the pendency of hearings and/or appeals shall be the sole responsibility of the owner. Failure to pay the costs shall result in a suit being filed in the County Circuit/Superior Court. Costs of the suit may be assessed to the animal's owner to include filing costs and reasonable attorney fees.

**90.41 OFF-PREMISES CONTROL** All domestic animals shall be controlled by a leash when not on the property of an owner, excluding fish and birds which shall be kept in an appropriate container.

#### **90.42 COMMUNITY CATS PROGRAM**

A. Definitions of Community Cat Program:

- a. Free Roaming Cats: Cats at large in the community without proper identification.
- b. Community Cat: A free roaming cat, without identification, that is not specifically owned by an individual. Said cat(s) may be at-large without identification, but may not be considered nuisances to the public, diseased, and/or not thriving due to loss of resources.
- c. Community Cat Providers: Individuals in the community who are willing to humanely trap free roaming cats, assist in determining if the cat(s) is a candidate for the Community Cat Program, and take steps to care for a Community Cat in accordance with the Community Cat Program. Community Cat Providers are not considered to be legal owners of the cats, and as such, are not legally bound to render care beyond basic necessities for Community Cats such as food and water. Community Cat Providers are not financially responsible for the medical treatment of Community Cats and cannot be held liable for any destruction caused to person or property by said cats.

B. Community Cats: Free Roaming Cats without acceptable identification which have been impounded or trapped in the community may be deemed a potential Community Cat by the City of Auburn and/or partnering DeKalb County Humane Society based on age, health, and behavior. Such cats may be transferred to the DeKalb County Humane Society for reintegration back into the community or placement in a barn cat program;

C. A cat identified as an existing Community Cat may be immediately returned to the community.

D. Implementing Community Cat Program:

- a. The City of Auburn, in coordination with participating citizens (Community Cat Providers), may impound Community Cats which are at-large without identification, nuisances to the public, diseased, or not thriving due to loss of resources in accordance with this chapter.

- b. The City of Auburn shall provide traps to citizens participating in the program at no cost. Said traps shall remain the property of the City of Auburn, Indiana and shall be returned immediately after the cats have been released or upon a citizen withdrawing from the Community Cat Program.
- E. The City of Auburn shall coordinate with partnering animal welfare organizations, such as the DeKalb County Humane Society and/or veterinarians, to offer resource information for establishing opportunities for Community Cats, Community Cat Providers, human deterrents, and advice regarding Community Cat nuisances.
- F. A Community Cat Provider shall comply with rules established and adopted by the Auburn Board of Works and Public Safety in coordination with the DeKalb County Humane Society to implement this program and the requirements set forth in this chapter.
- G. The Community Cat Program shall provide for the following:

Community Cat Providers found to be in violation of this Chapter or managing excess number of Community Cats as determined by the City may have their Community Cat Provider designation revoked at the discretion of the City.

- a. The ability to confine Free Roaming Cats and arrange for surgical sterilization, ear tipping, and vaccination for rabies by a licensed veterinarian, microchipping and documentation of the foregoing prior to release back to the community;
  - b. The ability to seek veterinary care for or obtain assistance from an Animal Welfare Organization or the Department for Community Cats for those which appear to require medical attention for serious illness or injury;
  - c. Make reasonable effort to work with the City of Auburn or partnering Animal Welfare Organization to resolve nuisance complaints using humane deterrents and/or the removal of Community Cats identified as a Public Nuisance; and
  - d. Community Cat Providers found to be in violation of this chapter may have their designation revoked at the discretion of the City of Auburn Board of Works and Public Safety and be subject to fines and/or other remedies at law consistent with Chapter 90 of the Auburn City Code.
- H. In addition to all other remedies at law, violations of this program shall be subject to fines and penalties in accordance with the Penalty provisions of this program.

**90.43 ENFORCEMENT**

It shall be the responsibility of the Police Department to issue citations for violations of this chapter.

**90.99 PENALTY**

Any violation of this Ordinance is punishable by a fine of \$50.00. Each day a violation continues is a separate offense.