

Received 9/29/2020
Clerk-Treasurer
City of Auburn, Indiana

ORDINANCE 2020-16

AN ORDINANCE TO AMEND A PORTION OF CHAPTER 93 OF THE AUBURN CITY CODE OF ORDINANCES

SUMMARY

This Ordinance amends a portion of Chapter 93 of the Auburn City Code of Ordinances to include rules and regulations of the new Eckhart Skate Park. Upon passage said rules shall be codified in the Auburn City Code at Chapter 93.09 and shall be placed in booklet form, for the public to access at the Office of the Clerk-Treasurer during regular business hours and also be placed online at www.ci.auburn.in.us under Auburn City Code. The Clerk-Treasurer shall maintain the original of this Ordinance at the Office of the Clerk-Treasurer.

Use of this extreme sport area involves the risk of serious injury or death. Any user of this facility acknowledges these risks and assumes the risk of injury or death while using this facility. The only way to avoid the risk of serious injury or death is to not participate in the extreme sport activity provided at this facility.

"Liability at extreme sports areas is limited under Indiana Code. This facility is defined as an 'extreme sports area' and Indiana law provides that a government entity that operates an extreme sports area has limited liability and tort claim immunity for damages at an extreme sports area if: (1) a set of rules governing the use of the facility is clearly posted at each entrance to the extreme sports area; and (2) a warning concerning the hazards and dangers associated with the use of the facility is clearly posted at each entrance to the extreme sports area. Indiana Code further provides that a governmental entity that operates an extreme sports area is required to maintain the area in a reasonably safe condition."

Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than One Hundred and No/100 Dollars (\$100.00). Upon a conviction of a third or subsequent offense committed within two (2) years after the date of the first offense the penalty shall be a fine of not more than One Thousand and No/100 Dollars (\$1,000.00).

The City of Auburn shall post the rules, regulations and warnings regarding the usage of the Eckhart Skate Park as further set forth in this Ordinance.

This Ordinance shall also be placed in a booklet format and be made available to the City of Auburn residents upon request at the City of Auburn Office of the Clerk-Treasurer.

The Clerk-Treasurer shall maintain the original copy of this Ordinance upon passage.

_____ Recorder's Office	___ x ___ Publish Public Hearing
_____ Auditor's Office	<u>10/20/20@6PM</u>
_____ Clerk's Office	___ x ___ Publish O/R after adoption
_____ Other	_____

ORDINANCE NO. 2020-16

**AN ORDINANCE TO AMEND A PORTION OF CHAPTER 93
OF THE AUBURN CITY CODE OF ORDINANCES**

WHEREAS, the Eckhart Skate Park has been established within the City of Auburn, Indiana, and is located within Eckhart Park at 1500 Cedar Street, Auburn, Indiana; and

WHEREAS, it is necessary to pass rules and regulations for the purpose of regulating the same; and

WHEREAS, this Ordinance amends a portion of Chapter 93 of the Auburn City Code of Ordinances to include rules and regulations of the new Auburn Eckhart Skate Park; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF AUBURN, INDIANA, that Chapter 93 shall be amended as follows:

Section 1.

The Eckhart Skate Park is established in Eckhart Park located at 1500 Cedar Street, Auburn, Indiana. The Eckhart Skate Park is defined as the concrete area in which structures have been created for skating purposes and includes the grass area immediately adjacent.

Section 2.

The following rules shall apply to the skate park and violations of said park rules are subject to fines as set forth in Section 93.99 of the Auburn City Code. Violators, at

the discretion of the City of Auburn, may be banned from the use of said park and be subject to no-trespass orders under Indiana Code.

1. Park hours shall be from 7:00 a.m. to sunset.
2. Only skateboards, in-line skates, manual powered scooters, quad skates, and bicycles are permitted within the skate park. No remote-control devices, motorized devices, or other mechanical or motor-powered devices shall be allowed to operate on or within the skate park.
3. Riders are encouraged to wear proper safety gear.
4. Children under twelve (12) must be supervised by an adult age eighteen (18) or above.
5. Shoes must be worn at all times.
6. All metal pegs must be removed.
7. No foreign obstacles are permitted within the complex, such as ramps, rails or similar items.
8. Skate or ride in designated areas only.
9. No graffiti, tagging, accelerants, or waxing allowed.
10. Horseplay, roughhousing, and/or violence are not permitted.
11. No profanity, alcohol, drugs, smoking, or vaping of any kind is allowed within the skate park.
12. Food and drink are only allowed in designated spectator areas.
13. No glass in or around the skating area.
14. Spectators must stay off skating surfaces and watch from designated spectator areas.

15. No amplified music allowed.
16. Any scheduled event or contest must be approved or permitted by the Auburn Parks and Recreation Department.
17. Vendors are prohibited from accessing the skate park unless it is approved by the Auburn Parks and Recreation Department.
18. The facility shall not be used when surfaces are wet or during inclement weather.
19. No skating or riding on frozen surfaces allowed.
20. No mechanical or chemical means of snow or ice removal shall be allowed.
21. No pets shall be allowed within the skate park premises.

Section 3.

In addition to clearly posting the rules of the Eckhart Skate Park, the Auburn Parks and Recreation Department shall post notice within the park complex as follows:

- a. All individuals shall abide by Section 93.09 of the Auburn City Code, located at www.ci.auburn.in.us, and the posted regulations of the Eckhart Skate Park. Skate at your own risk, know your abilities, and skate or ride within them.
- b. Failure to follow these rules may result in expulsion from the park facility or closure of the Eckhart Skate Park.
- c. All spectators and users of Eckhart Skate Park are in agreement with and shall abide by the rules and regulations of the Eckhart Skate Park.

- d. The Auburn Parks and Recreation Department and / or the City of Auburn Police Department reserves the right to close this facility to the public at any time without notice.
- e. The Auburn Parks and Recreation Department and / or the City of Auburn Police Department may issue No-Trespass Orders to individuals who violate the rules set forth herein. Violations of said No-Trespass Orders may lead to arrest and criminal charges being filed against the violator.

Section 4.

The City of Auburn shall further have posted the following notice within the park complex warning participants of the potential injury associated with use of the park:

Use of this extreme sport area involves the risk of serious injury or death. Any user of this facility acknowledges these risks and assumes the risk of injury or death while using this facility. The only way to avoid the risk of serious injury or death is to not participate in the extreme sport activity provided at this facility.

Section 5.

LIMITATION OF LIABILITY

"Liability at extreme sports areas is limited under Indiana Code. This facility is defined as an 'extreme sports area' and Indiana law provides that a government entity that operates an extreme sports area has limited liability and tort claim immunity for damages at an extremes sports area if: (1) a set of rules governing the use of the facility is clearly posted at each entrance to the extreme sports area; and (2) a warning concerning the hazards and dangers associated with the use of the facility is clearly posted at each entrance to the extreme sports area. Indiana Code further provides that a governmental entity that operates an extreme sports area is required to maintain the area in a reasonably safe condition."

Section 6.

93.09 shall now be codified as 93.10 PROBABLE CAUSE CITATIONS

Whenever any law enforcement officer compiles information which leads the officer to have probable cause to believe that a violation of this chapter has occurred, the officer may issue a citation on a form provided by the Clerk-Treasurer to the offender.

Section 7.

93.10 shall now be codified as 93.11 PROSECUTOR OF CHARGES

The County Prosecutor and/or said duly appointed Deputy or City Attorney or said duly appointed Assistant City Attorney is authorized to prosecute all charges of violation of this chapter.

Section 8.

93.99 shall remain unchanged as PENALTY

A. Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than One Hundred and No/100 Dollars (\$100.00). Upon a conviction of a third or subsequent offense committed within two (2) years after the date of the first offense the penalty shall be a fine of not more than One Thousand and No/100 Dollars (\$1,000.00).

1. Any person who receives a citation under this chapter shall have the privilege of paying a forfeit to the Clerk-Treasurer of the City. Said forfeit shall be Twenty-five and No/100 Dollars (\$25.00) if paid within ten (10) days of the citation.

2. Any person who violates this chapter and fails to pay the forfeit shall be subject to the penalty provision of division (A) above.

The forfeit and / or fine may be paid to the Clerk-Treasurer through the Violations Bureau.

1st Reading _____
2nd Reading _____

BE IT FURTHER ORDAINED, this Ordinance shall be in full force and effect upon passage by the Common Council of the City of Auburn, Indiana, and publication of the summary in a newspaper of legal circulation within the County of DeKalb.

FURTHER, this Ordinance shall be codified as set forth in Exhibit "A" in the Auburn City Municipal Code and be available online under the Auburn Code of Ordinances at www.ci.auburn.in.us.

This Ordinance shall also be placed in a booklet format and be made available to the City of Auburn residents upon request at the City of Auburn Office of the Clerk-Treasurer.

The Clerk-Treasurer shall maintain the original copy of this Ordinance upon passage.


PASSED AND ADOPTED by the Common Council of the City of Auburn, Indiana, this

20 day of October, 2020.



James Finchum, Councilmember

ATTEST:



Patricia Miller
Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this 20 day of
October, 2020.


PATRICIA M. MILLER, Clerk-Treasurer

APPROVED AND SIGNED by me this 20 day of October, 2020.


MICHAEL D. LEY, Mayor

VOTING:

AYE

NAY

Jim Finchum



Denny Ketzenberger

Natalie DeWitt



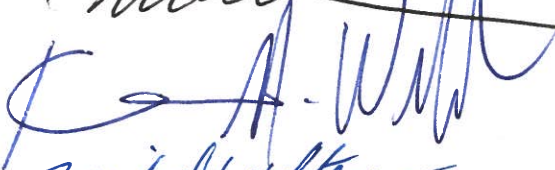
Dennis (Matthew) Kruse II



Mike Watson



Kevin Webb



Michael Walter



Exhibit “A”

Codified in the Auburn Municipal Code online. 93.09, 93.10, 93.11 and 93.99

93.09 THE AUBURN ECKHART SKATE PARK

A. Auburn Eckhart Sake Park Rules Section

The Eckhart Skate Park is established in Eckhart Park located at 1500 Cedar Street, Auburn, Indiana. The Eckhart Skate Park is defined as the concrete area in which structures have been created for skating purposes and includes the grass area immediately adjacent.

B. Rules

The following rules shall apply to the skate park and violations of said park rules are subject to fines as set forth in Section 93.99 of the Auburn City Code. Violators, at the discretion of the City of Auburn, may be banned from the use of said park and be subject to no-trespass orders under Indiana Code.

1. Park hours shall be from 7:00 a.m. to sunset.
2. Only skateboards, in-line skates, manual powered scooters, quad skates, and bicycles are permitted within the skate park. No remote-control devices, motorized devices, or other mechanical or motor-powered devices shall be allowed to operate on or within the skate park.
3. Riders are encouraged to wear proper safety gear.
4. Children under twelve (12) must be supervised by an adult age eighteen (18) or above.
5. Shoes must be worn at all times.

6. All metal pegs must be removed.
7. No foreign obstacles are permitted within the complex, such as ramps, rails or similar items.
8. Skate or ride in designated areas only.
9. No graffiti, tagging, accelerants, or waxing allowed.
10. Horseplay, roughhousing, and/or violence are not permitted.
11. No profanity, alcohol, drugs, smoking, or vaping of any kind is allowed within the skate park.
12. Food and drink are only allowed in designated spectator areas.
13. No glass in or around the skating area.
14. Spectators must stay off skating surfaces and watch from designated spectator areas.
15. No amplified music allowed.
16. Any scheduled event or contest must be approved or permitted by the Auburn Parks and Recreation Department.
17. Vendors are prohibited from accessing the skate park unless it is approved by the Auburn Parks and Recreation Department.
18. The facility shall not be used when surfaces are wet or during inclement weather.
19. No skating or riding on frozen surfaces allowed.
20. No mechanical or chemical means of snow or ice removal shall be allowed.
21. No pets shall be allowed within the skate park premises.

C. Notice

In addition to clearly posting the rules of the Eckhart Skate Park, the Auburn Parks and Recreation Department shall post notice within the park complex as follows:

- a. All individuals shall abide by Section 93.09 of the Auburn City Code, located at www.ci.auburn.in.us, and the posted regulations of the Eckhart Skate Park. Skate at your own risk, know your abilities, and skate or ride within them.
- b. Failure to follow these rules may result in expulsion from the park facility or closure of the Eckhart Skate Park.
- c. All spectators and users of Eckhart Skate Park are in agreement with and shall abide by the rules and regulations of the Eckhart Skate Park.
- d. The Auburn Parks and Recreation Department and / or the City of Auburn Police Department reserves the right to close this facility to the public at any time without notice.
- e. The Auburn Parks and Recreation Department and / or the City of Auburn Police Department may issue No-Trespass Orders to individuals who violate the rules set forth herein. Violations of said No-Trespass Orders may lead to arrest and criminal charges being filed against the violator.

D. Warning Notice

The City of Auburn shall further have posted the following notice within the park complex warning participants of the potential injury associated with use of the park:

Use of this extreme sport area involves the risk of serious injury or death. Any user of this facility acknowledges these risks and assumes the risk of injury or death while using this facility. The only way to avoid the risk of serious injury or death is to not participate in the extreme sport activity provided at this facility.

E. Limitation of Liability

"Liability at extreme sports areas is limited under Indiana Code. This facility is defined as an 'extreme sports area' and Indiana law provides that a government entity that operates an extreme sports area has limited liability and tort claim immunity for damages at an extremes sports area if: (1) a set of rules governing the use of the facility is clearly posted at each entrance to the extreme sports area; and (2) a warning concerning the hazards and dangers associated with the use of the facility is clearly posted at each entrance to the extreme sports area. Indiana Code further provides that a governmental entity that operates an extreme sports area is required to maintain the area in a reasonably safe condition."

93.10 PROBABLE CASUE CITATIONS

Whenever any law enforcement officer compiles information which leads the officer to have probable cause to believe that a violation of this chapter has occurred, the officer may issue a citation on a form provided by the Clerk-Treasurer to the offender.

93.11 PROSECUTOR OF CHARGES

The County Prosecutor and/or said duly appointed Deputy or City Attorney or said duly appointed Assistant City Attorney is authorized to prosecute all charges of violation of this chapter.

93.99 PENALTY

- A. Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than One Hundred and No/100 Dollars (\$100.00). Upon a conviction of a third or subsequent offense committed within two (2) years after the date of the first offense the penalty shall be a fine of not more than One Thousand and No/100 Dollars (\$1,000.00).

- B.
 - 1. Any person who receives a citation under this chapter shall have the privilege of paying a forfeit to the Clerk-Treasurer of the City. Said forfeit shall be Twenty-five and No/100 Dollars (\$25.00) if paid within ten (10) days of the citation.

 - 2. Any person who violates this chapter and fails to pay the forfeit shall be subject to the penalty provision of division (A) above.

- C. The forfeit and / or fine may be paid to the Clerk-Treasurer through the Violations Bureau.