

Ordinance No.06-27

ORDINANCE OF THE TOWN OF ST. JOE

An Ordinance concerning Health & Public Safety as it relates to Animal Control and Regulation

WHEREAS, the present Ordinance No. 08-03 “An Ordinance concerning Health & Public Safety as it relates to Animal Control” does not adequately address the issues related to animal control and regulation within the town limits of the Town of St. Joe, Indiana; and

WHEREAS, the Town Board may adopt ordinances pursuant to Ind. Code 36-5-2-9; and

WHEREAS, the Town Board has the power to adopt ordinances for the regulation of animal control pursuant to I.C. 36-1-3-2.

NOW THEREFORE, BE IT ORDAINED by the Town Board for the Town of St. Joe, Indiana that Ordinance No. 08-03 is hereby repealed in its entirety and replaced with the following:

CHAPTER 1. Definitions.

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

“ANIMAL.” Any mammal of either sex or neutered, such as, but not limited to, a dog, cat, goat, pig, horse, cow, chicken, rooster, mare, colt, mule, jackass, jenny, bull, ox, calf, sheep, swine, or reptile.

“AT LARGE.” Off the premises of the owner and not under the control of the owner or a member of the owner’s immediate family, either by leash, cord, chain, or under reasonable control of some competent person.

“DOG.” Member of the canine species, male, female, or neutered.

“DOMESTIC ANIMALS.” Domestic animals shall be construed to be dogs, cats, parakeets, canaries, and other small animals or birds which are normally kept within the living quarters of the residence or dwelling.

“FREQUENTLY BARKING DOG.” A dog which barks on a regular basis disturbing the peace and quiet of adjoining premises.

“HABITUALLY BARKING DOG.” A dog which is observed to be barking for more than an hour a day for two or more days in a seven-day period.

“HARBORING.” Any person who shall suffer or permit any animal to frequent or remain on or within his or her house, building, premises, or enclosure shall be deemed to be harboring the animal within the meaning of this chapter.

“KEEPER.” Any person who owns, permits, or maintains any dog on any premises.

“OWNER.” Any person keeping or harboring an animal.

“PET.” A domesticated animal such as a dog or cat (other than a service animal).

“PET SOLID WASTE.” Biological waste matter expelled from the bowels of the pet.

“PROPER DISPOSAL.” Placement in a waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the town or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

“WILD ANIMALS.” Wild animals shall be construed to mean all poisonous reptiles or any other dangerous or carnivorous wild animal or reptile, any vicious or dangerous domesticated animals or any other animal or reptile having wild, vicious, or dangerous propensities. This term shall include but not be limited to apes, bears, constrictor snakes over six (6) feet in length, coyotes, deer, foxes, gamecocks, and other fighting birds, monkeys, and wolves.

CHAPTER 2. Dogs.

A. Dogs Running at Large.

No person owning or having charge, care, custody, or control of any dog shall cause, permit, or allow the dog to run at large upon any street, alley, or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of the dog, within the town limits.

B. Dogs Disturbing the Public Peace.

1. No person shall keep or harbor any dogs which by frequent or habitual barking, howling, or yelping, cause the peace and quiet of adjoining premises and occupants thereof to be unreasonably disturbed. Proof that any dog is heard or observed barking and disturbing the adjoining property more than three (3) times in a one-week period shall be prima facie evidence of violation of the provisions of this section.
2. During a period of nine (9) hours, from 9:00 p.m. to 6:00 a.m., a dog barking continuously for a period of more than ten (10) minutes shall constitute disturbing the peace in violation of this section.

C. Control of Dog Pollution.

It shall be unlawful for any person to harbor or keep any dog which shall cause pollution from its excrement which can be detected by sight or smell from the adjoining premises and occupants thereof.

D. Vaccination of Dogs Required.

No dogs impounded for running at large shall be released to any person unless said dog, prior to such release, has received a vaccination for rabies, and the person receiving such animal can provide written proof of the rabies vaccination prior to release of the impounded dog.

E. Registration and Tags

1. Any owner of a dog residing within the town limits shall register all dogs with the Town Clerk-Treasurer. There shall be no fee to register the dog.

The following information shall be included in the registration:

- a. Name of owner;
 - b. Address of owner;
 - c. Phone number of owner;
 - d. Type or breed of dog; and
 - e. Proof of vaccination for the dog.
2. All dogs shall wear visible tag(s). The tag(s) shall include the name of the owner, the phone number of the owner and proof of vaccination.

CHAPTER 3. Control of Other Animals.

A. Animals Running at Large.

No person shall permit their animal to run at large within the town nor shall any person have any animal not permitted under the laws of the town.

B. Number of Dogs and Cats Per Residence.

No person living within the town limits in a residential zoned area shall have more than three (3) dogs and three (3) cats; except if those animals have litters, then they shall have sixty (60) days from birth to reduce the number of dogs or cats at the residence to no more than three (3) each.

C. Animal Control and Pet Waste.

The purpose of this section is to establish requirements for the proper disposal of pet solid waste within the town limits, to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

1. Requirements for Disposal

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

2. Exemption

Any owner or keeper who requires the use of a disability assistance animal such as a seeing eye dog, shall be exempt from the provisions of this section while such animal is being used for that purpose.

D. Animals Exposed to Disease.

Any animal which is afflicted with a contagious or infectious disease and has been found at large, or have come into contact with, or exposed to any public place shall be placed in an animal shelter provided for that purpose by contract or otherwise by the Town.

E. Harboring Vicious Animal.

It shall be unlawful for any person to keep or harbor any vicious or unruly animal. It shall be unlawful for a person to feed, tease, tantalize, molest, or provoke any animal in the town limits without the express consent of the animal's owner, if any, while the animal is on the owner's property or under the owner's control.

F. Noxious Odors.

1. No person shall have, keep or otherwise harbor any dog, cat, or other domestic animal or pet in the town limits if noxious and/or offensive odors caused to enter upon or across the real estate owned or occupied by another or upon or across any public right-of-way.
2. It shall be the duty of the owner of the property where any violation exists to eliminate the violation by removing the substances, materials or animal excrement giving rise to any odor and to maintain the premises free from such unwholesome substances. Should the owner, upon proper notice in writing, fail or refuse to remove the violation, the Town may enter upon the premises where the violation exists and abate the violation by removal of the substances, materials or animal excrement giving rise to the offensive odors

and by impounding the animal found on the premises. The animal so impounded shall be placed in an animal shelter provided for that purpose.

G. Securing Animals.

No animal shall be hitched, tied, or fastened by any rope, chain, or cord that is directly attached to the animal's neck. Animals that must be tied, hitched, or fastened to restrain them must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. This is not to prohibit the proper use of choker collars in the training of animals. The tying device shall be attached to the animal's collar or harness and shall be at least six (6') feet in length.

H. Certain Animals Prohibited.

No person shall keep, stable, or maintain horses, mules, swine, sheep, goats, ponies, or animal of the bovine species within the town limits; provided however, that this section shall not be construed to prohibit the transport of any animal herein described in vehicles over the public streets.

CHAPTER 4. Impoundment.

A. Redemption.

The owner of any animals impounded pursuant to this ordinance may, within five (5) days after the impoundment redeem the animal by paying the expenses incident to impounding such animal, caring for the animal, and paying any lawfully imposed and unpaid fees for such animals that have accrued up to the time of redemption.

B. Disposition When Not Redeemed.

Any animal impounded pursuant to this ordinance which is not redeemed by its owner within five (5) days after it has been impounded may, at the election of the impounding supervisor, be sold or disposed of in a humane manner.

CHAPTER 5. Chicken Raising or Harboring.

A. Chicken Raising or harboring permit required.

1. It shall be unlawful for any person to keep, maintain, possess, or harbor on any property within the town limits, any chickens, unless a chicken raising or harboring permit therefore has been issued by the Town Clerk-Treasurer. Such permit is required to be renewed annually. A fee shall be assessed for each new and renewal permit application.

2. A permit is required for keeping up to six (6) chickens on any real estate within the town limits. Such permit shall allow the keeping of the chickens on a specific property and shall be personal to the permit holder and is non-transferrable. A fee shall be charged for each new permit. The following requirements must be met:
 - a. There must be at least four (4) square feet per chicken of permeable land area available for chickens plus adequate enclosed shelter space for all chickens.
 - b. Adequate shelter must be provided to protect the chickens from the elements and to prevent wildlife or other predators from gaining entry.
 - c. Adequate fencing shall be provided to prevent the chickens from escaping when not in their shelters. The outside pen shall be completely enclosed with wire or other covering.
 - d. At any one time, only one chicken harbor or pen is permitted on any property.
 - e. No roosters may be kept on any property.
 - f. Chickens shall not be kept within fifty (50) feet from a residence owned by another person, unless the owner of the chickens provides the Town Clerk-Treasurer with written consent, from the other owner.

B. Inspection.

Prior to the issuance of a permit to keep or harbor chickens, the applicant must allow a town representative to inspect the facilities to ensure compliance with this chapter. The town representative must acknowledge the facilities have been inspected, the date of the inspection, and that the facilities comply with this chapter.

C. Nuisance-free facilities prerequisite to granting permit.

A permit to keep chickens within the town shall not be granted unless the owner or possessor provides facilities which will reasonably assure the town representatives that the premises will be maintained in a sanitary condition, free from insect and rodents, offensive odors, excessive noise, or any other conditions which constitute a public nuisance.

D. Denial or revocation.

The Town President or designated code enforcer may deny or revoke a permit to keep, maintain, or possess chickens within the town if the Town President or representative determines that any nuisance exists or any law is being violated or finds that maintenance of any chickens interferes with the reasonable and comfortable use and enjoyment of property; provided, however, that the person being aggrieved by such denial or revocation can, within ten (10) days thereafter, appeal the decision to the Town Council.

E. Permit fee.

The annual permit fee for permits under this chapter shall be \$100.00. The Town Clerk-Treasurer shall prepare proper forms as necessary to implement this chapter.

F. Slaughtering prohibited.

Under no circumstance shall any person slaughter any chicken or animal within the town limits.

CHAPTER 6. Enforcement.

- A. The provisions of this ordinance shall be enforced by the Town President, Town Council, Town Clerk-Treasurer or their designee.
- B. The Town may file a suit for injunction against the offender seeking an injunction to prohibit such activity and to comply with the provisions of this ordinance. The suit may seek fines as provided herein. Further the town shall be entitled to recover all costs and expenses including attorney fees if the defendant is found to be in violation of the provisions of this ordinance.

CHAPTER 7. Penalties.

- A. Except as otherwise provided herein, any person who violates any provision of this ordinance shall be fined not less than \$25.00 nor more than \$100.00 for the first offense. Each day a person remains in violation of any of the provisions of this chapter shall constitute a separate violation.
- B. Except as otherwise provided herein, any person convicted of a second offense under these sections shall be fined not less than \$100.00 and not more than \$500.00.
- C. Any person convicted of more than two (2) offenses under this ordinance shall be fined not more than \$2,500.00 per offense. Each day shall constitute a separate offense.

D. All monies received pursuant to this ordinance shall be paid to the Clerk-Treasurer who shall place such monies in the General Fund of the Town of St. Joe.

E. Violations Related to Raising or Harboring Chickens.

1. After a permit is issued under Chapter 5 of this ordinance, the first violation of any provision of Chapter 5 is a written warning with explicit written instructions for abatement and a time requirement not to exceed seven (7) days. The second violation is a fine of \$100.00. The third violation results in a revocation of the permit. The form or application for a permit shall alert applicants to the penalties; provided, however, there shall be a \$100.00 for any individual raising or harboring chickens without a permit within the town limits.
2. Each day of a violation under this section shall be considered a separate violation. This section may also be enforced by injunctive relief pursuant to Chapter 6(B). The town may recover reasonable attorney fees for any court action taken herein against a violator. If a violation occurs on any real estate, the titleholder and/or any other occupying party are jointly liable for penalties or fees herein.

CHAPTER 8. Other Ordinances.

All other ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of such inconsistency or conflict. This ordinance specifically repeals Ordinance 08-03, as it relates to animal control and regulation.

CHAPTER 9.Effective Date.

This ordinance shall be in full force and effect from and after passage and adoption, approval and publication according to the laws of the State of Indiana.

This ordinance is duly passed by the Town Board of the Town of St. Joe, Indiana, on the 27th day of June, 2023.

Randy Drake, President

Daniel Davidhizer, Member

Mary Simcox, Member

Attest:

Angela Snyder, Clerk-Treasurer