

ORDINANCE NUMBER 429

**AN ORDINANCE REGULATING AND REQUIRING HUMANE
TREATMENT OF ANIMALS AND THE CONTROL OF ANIMALS
WITHIN THE TOWN OF MIDDLEBURY, INDIANA**

WHEREAS Indiana Code Sections 36-1-3-1 et. seq. permit any town in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or preempted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the Town Council of the Town of Middlebury, Indiana is the Town legislative body and is by law authorized to adopt ordinances and regulations governing the public health, safety, and welfare of the citizens of the Town of Middlebury, Indiana;

WHEREAS the Town Council of the Town of Middlebury, Indiana deems it reasonable and appropriate to adopt an ordinance regulating and requiring the humane treatment of animals and the control of animals within the incorporated area of the Town of Middlebury, Indiana;

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, RESOLVED, AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIDDLEBURY, INDIANA AS FOLLOWS:

1. Definition of Terms. The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them by this Section unless the context otherwise indicates:

- (a) "Abandonment" shall mean the voluntary relinquishment of possession by the owner with the intention of terminating ownership but without vesting it in any other person.
- (b) "At large" shall mean off the premises of the owner's property or residence while not under the control of the owner or other person by leash, cord, chain, or other device of actual physical restraint. An exception to "at large" shall be for instances where a dog, cat, or other animal would be under voice control while engaged in hunting, tracking, or other verifiable training procedures.
- (c) "Dog," "cat," and "animal" shall include both the male and female of all forms of dogs, cats, or other animals of any type or character.
- (d) "Owner" shall mean any person, firm, association, group, partnership, limited liability partnership, limited liability company, corporation, or any other entity owning, keeping, boarding, or harboring a dog, cat, or other animal within the Town of Middlebury, Indiana.

- (e) "Vicious" shall mean with a propensity, inclination, tendering or attitude toward or causing an unprovoked attack or assault on a human or another animal.

2. Jurisdiction. This Ordinance, and the rules, regulations, restrictions, and punishments herein provided, shall pertain only to activities arising from or occurring within the incorporated area of the Town of Middlebury, Indiana.

3. Control Measures. An owner shall keep his or her dog, cat, or other animal under control at all times. It shall be deemed that an owner does not have control of his or her animal if the animal is permitted to:

- (a) Run at large at any time within the incorporated area of the Town of Middlebury, Indiana.
- (b) Damage or defile the premises or property of another within the incorporated area of the Town of Middlebury, Indiana.
- (c) Bark or howl unduly, for periods exceeding thirty (30) minutes, so as to disturb the quiet of the neighborhood, or any person or persons; provided, however, that this subsection (c) shall not apply to duly licensed and operated kennels permitted by the Elkhart County Zoning Ordinance to be operated at the location at issue, by specific zoning ruling, special use permit, or other provisions of the Zoning Ordinance.
- (d) Bite, or attempt to bite, attack, or belligerently pursue any person or persons.

4. Female Dogs or Cats. Any female dog or cat in heat shall be confined in a secure enclosure by its owner in such manner that the female cannot come in contact with a male animal of its own species, except for purposes of planned breeding.

5. Abandonment of Animals. It shall be unlawful for any owner of any animal to abandon the same within the incorporated area of the Town of Middlebury, Indiana.

6. Inoculation. All dogs or cats kept, harbored, or maintained by their owners in the Town of Middlebury, Indiana, and over the age of six (6) months, shall have a current and valid rabies inoculation, and must wear a tag at all times attached to a properly fitted collar or harness verifying the inoculation.

7. Vicious Animals. It shall be unlawful for any person to keep, maintain, or have in his possession or under his control within the incorporated areas of the Town of Middlebury, Indiana, any dangerous dog, or other animal with vicious or dangerous propensities toward humans or other animals. This Section of the Ordinance does not prohibit trained law enforcement dogs nor trained security dogs.

8. Enforcement. Ordinance violations may be enforced under proceedings brought pursuant to Indiana Code §34-28-5 et seq. in a manner similar to that for infractions with complaint and summons described in Indiana Code §9-30-3-6 issued by the Town of Middlebury Police Department or other police agency.

9. Penalties. Any person violating any of the provisions of this Ordinance shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), together with the Court costs or other assessments imposed by a Court of competent jurisdiction. Any person convicted of a subsequent violation or violations of this Ordinance, within one (1) year after a prior conviction, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), together with the Court costs or other assessments imposed by a Court of competent jurisdiction. For purposes of this Ordinance, each day's violation of any of the terms or provisions hereof shall be deemed a separate offense.

10. Effective Date. This Ordinance shall be effective from and after the date of all legal publications as required by law.

ORDAINED AND ADOPTED THIS 16th day of June, 2003.

TOWN COUNCIL OF THE TOWN OF
MIDDLEBURY, INDIANA

By Gary L. O'Dell
Gary L. O'Dell, President

By Gregg Fore
Gregg Fore

By Ruth A. Eash
Ruth A. Eash

By James L. Miller
James L. Miller

By _____
James A. Riegsecker

Attest:

Sally A. Nusbaum
Sally A. Nusbaum, Clerk-Treasurer
Town of Middlebury