

STARKE COUNTY COMMISSIONERS
ORDINANCE 2019- 09
DOG NOISE ABATEMENT

THE BOARD OF COMMISSIONERS OF STARKE COUNTY, INDIANA (the “Commissioners”) has received, both directly and through the Sheriff’s Department, numerous complaints about dogs barking, yelping or howling so frequently and for such a protracted period of time as to be an unreasonable nuisance to adjacent and nearby property owners. The Commissioners have determined that unreasonably noisy dogs may be a significant neighborhood problem by disrupting the peaceful enjoyment of other persons on their own property, disrupting the rest and sleep of neighbors, detracting from the enjoyment of outdoor activities and engendering hostile relations between neighbors.

WHEREFORE, the COMMISSIONERS FIND that unreasonable or nuisance noise caused by dogs is contrary to the public safety, health, welfare of the citizens of Starke County, and to persons visiting or owning property in Starke County;

AND WHEREFORE, the Commissioners hereby enact the Starke County Dog Noise Abatement Ordinance, as follows:

1. **Owner Responsible for Control of Dog Noise.** A person who owns or harbors one or more dogs is responsible for controlling the noise produced by those dogs so as to prevent it from becoming unreasonable or a nuisance to others as defined herein.

2. **Unreasonable or Nuisance Dog Noise; Complaints.** Any dog or dogs that excessively barks, howls, or yelps intermittently or continuously for more than fifteen minutes in a manner that constitutes an unreasonably loud or disturbing noise of such a character, intensity and duration as to disturb the peace, quiet, and good order and which gives rise to a complaint of an adjacent or nearby property owner or occupant is hereby defined as “Unreasonable or Nuisance Dog Noise”. Alternately, for complaints regarding Unreasonable or Nuisance Dog Noise by a person or persons rightfully using public spaces (such as roads, trails or parks), two or more complaints by unrelated person living in different households shall be required.

3. **Enforcement; Penalties.** The Sheriff of Starke County may enforce this Ordinance as follows:

(a) **First Offense.** The Sheriff shall issue a written NOTICE TO ABATE to the owner or harbinger of the dogs that were the subject of the complaint. The notice shall include the location, date and general nature of the Unreasonable or Nuisance Dog Noise, and in addition shall include a copy of this Ordinance as amended.

(b) **Additional Offenses.** For complaints/violations hereunder within three (3) years of the issuance of a NOTICE TO ABATE as set forth in section 3(a) above, the Sheriff's Dept. may issue a fine not to exceed \$100.00 along with notice that additional complaints could result in issuance of a fine under section 3(c) below, along with a NOTICE TO ABATE (REPEATED COMPLAINT).

(c) **Habitual or Flagrant Violations.** Habitual or flagrant violators of this Ordinance may be issued a fine not to exceed \$500.00 per violation, and may provide the basis for injunctive relief if sought by the Sheriff, Commissioners or an occupant or owner of a nearby property affected by the unreasonable dog noise. Factors that may support a finding that the owner or harbinger of dogs is in habitual or flagrant violation of this Ordinance include: (a) more than three citations within a three year period; (b) statements or actions by the owner or harbinger that support the inference of a willful disregard for their responsibility to control the dogs' noise making; or (c) statements or actions by the owner or harbinger of a spiteful, rude or aggressive nature with respect to the complaining neighbors, or (d) similar evidence or factors suggesting that the owner or harbinger is unlikely to adequately address their dogs' noise making.

4. Enforcement; Procedure. The Sheriff may seek enforcement of the penalties hereunder by any lawful means, including (without limitation) a civil collection action by the County Attorney. The County Attorney shall have discretion regarding prosecution of such claims. In addition, in the case of alleged Habitual or Flagrant violation under Section 3(c), the County Attorney may an order enjoining further violations.

5. Exemptions. The following are exempt from this Ordinance: (a) a dog or dogs engaged in lawful hunting and accompanied by the owner or a custodian; and (b) a dog or dogs engaged in herding of domestic animals for the benefit of the domestic animals' owner.

6. Private Lawsuits. This Ordinance is intended as an expression of the public policy of Starke County regarding abatement of unreasonable or nuisance noise making by dogs. Nothing herein shall be construed as prohibiting or precluding any private lawsuit, complaint or cause of action regarding the subject matter hereof. In addition, this Ordinance may be cited in a private lawsuit as evidence that Unreasonable or Nuisance Dog Noise is prohibited in Starke County.

NOW, THEREFORE, BE IT ORDAINED that the Starke County Code be amended to add Commissioners Ordinance 2019-09, the DOG NOISE ABATEMENT ORDINANCE superseding, replacing and repealing all prior ordinances inconsistent with the terms hereof.

May 20, 2019

[DOGS - UNREASONABLE OR NUISANCE NOISE]

This Ordinance shall take effect upon passage except that the fines and penalties shall become effective upon publication as required by law.

Presented to the Board of Commissioners of Starke County, Indiana, and approved on the third reading the 20 day of May 2019, by the following vote:

Dated: May 20, 2019.

STARKE COUNTY COMMISSIONERS

VOTE

yes



Charles Chesak, President

yes



Kathryn Norem, Vice President

yes



Bryan Cavender, Commissioner

ATTEST:



Rachel Osterreich, Auditor
Of Starke County Indiana