

Village of Kirby, Ohio, Ordinance 1-2017, "Attachment 'A'" Page 1 of 3

It is unlawful for the owner of any animal to violate any of the provisions of this chapter hereinbefore or hereinafter set out, or to commit any of the following acts:

- A. To allow any dog to run at large;
- B. To allow any dog to trespass upon public property or upon any private property without the consent of the owner of the property;
- C. If unauthorized, to remove from any dog any collar or harness or other device to which a license tag is attached, for the current year, or to remove such license tag therefrom;
- D. To attach to, or keep upon, or cause or permit to be attached to or kept upon any dog any license tag provided by this chapter, except a tag issued for such dog under the provisions of this chapter, or to attach to or keep upon, or cause or permit to be attached to or kept upon any dog, or to make or to cause or permit to be made, or to have in possession, any counterfeit or imitation of any tag provided for by this chapter;
- E. To possess any unlicensed dog in the Village, or to maintain, conduct or operate, or to cause or permit to be maintained or operated in the county, any unlicensed dog kennel;
- F. To interfere with, oppose or resist any animal control officer while he or she is engaged in the performance of any act authorized by this chapter;
- G. To allow any female dog to run at large while in heat or breeding condition or to allow such female to remain accessible to other dogs running at large while said female is in heat or breeding condition;
- H. To permit any dog to trespass on any farm where livestock or domestic fowl are kept; or to abandon any dog in the Village of Kirby;
- I. To allow any dog known to be potentially dangerous or vicious to run at large upon any street or other public place within the Village;
- J. To possess any dog over four months of age which does not have a current vaccination for rabies as evidenced by an official certificate thereof, except as otherwise provided in this chapter;
- K. To allow any dog to go without adequate food, water, shelter or proper care;
- L. No new Kennel shall be established in the Village of Kirby 30 days after the passage of this Ordinance. Penalties shall be no less than those for excessive dog barking.

(continued)

M. Failure of an owner of a dog to comply with the conditions and obligations of ownership of a potentially dangerous or vicious dog as set forth above and below, and as deemed necessary by the hearing officer, may result in the imposition of penalties consistent with this Ordinance and applicable sections of Ohio Revised Code.

Nuisance—Excessive dog barking.

A. It is unlawful for any person to own, possess, harbor, control, or keep on any premises any dog that barks or howls so continuously or incessantly as to unreasonably disturb the peace and tranquility of the neighborhood. Commercial dog kennels, permitted by ORC law, are subject to dog barking nuisance laws as well as other applicable codes. Working dogs who bark while actively herding or participating in standard farming practices, as determined by the agricultural commissioner, shall be exempt from this section. Authorized Wyandot County law enforcement agencies are responsible for enforcement of the provisions of this section.

B. For purposes of this section, evidence that the dog has barked or howled for an aggregate period of twenty (20) minutes out of one hour shall be sufficient for conviction. If the first nuisance barking or howling complaint is determined to be provoked by any other animal or nearby pedestrian(s), it may be excluded from the aggregate time if the owner: (1) provides documentation that the provocation exists and cannot be avoided; and (2) takes remedial steps to change the environment of the dog(s) and abate the nuisance within a six-month period from the date of the complaint.

C. For purposes of this section, evidence that two or more dogs are provoking each other to bark, shall be sufficient for conviction under this section, so long as the barking continues for an aggregate twenty (20) minutes out of one hour, regardless of which dog commenced the barking. In such instance, owners of each dog involved shall be subject to citation.

Proof that any individual dog barked for an aggregate twenty (20) minutes out of an hour shall not be required if it is shown that the barking of the two or more dogs was continuous sequentially or in concert for a twenty (20) minute period.

D. Upon receipt of any complaint based on continuous or incessant barking or howling, an animal control officer shall investigate and take a report from any complaining witness.

E. Upon evaluation of the report, if in the opinion of the animal control officer a valid complaint exists, the officer shall contact the owner of the animal complained about and advise the owner of the existence of the complaint, and instruct the owner to abate the nuisance.

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F. If a second complaint is received within a six-month period after the giving of such notice and warning regarding a dog barking or howling incessantly and continuously, the animal control officer shall investigate the second complaint and take a report from any complaining witness.

G. Upon evaluation of the report, if in the opinion of a control officer the dog is creating a nuisance by barking or howling incessantly or continuously, the officer shall issue a citation to the owner of said animal for a violation of this section. Such violation shall be an infraction. Personal appearance before the court of jurisdiction shall be mandatory. Forfeiture of bail shall not constitute a resolution of a violation of this section.

H. If any control office receives a third complaint regarding the same animal within one year from the first complaint, the officer shall repeat the process set forth in subsections F and G of this section.

I. If the owner of the dog at the time of the issuance of any citation has been convicted of a violation of this section, or has pled no contest to such violation, on two or more occasions within twelve (12) months from the time of the issuance regarding the same dog, the violation(s) of this section shall be a misdemeanor.

J. If the officer receives a complaint after one year or more has elapsed since the most recent prior complaint, the officer shall issue a warning and continue pursuant to subsections D through H of this section.

K. The penalty for conviction of an infraction based on this section shall be a fine of one hundred dollars (\$100.00).

L. The penalty for conviction of a misdemeanor based on this section shall be a maximum of six months in jail and/or a fine of five hundred dollars (\$500.00), and shall be applied to each subsequent conviction occurring within two years of the previous resolution. Upon conviction, the owner shall be required to either remove the dog from the premises or comply with such other restrictions as deemed necessary by the director of animal services.

M. Nothing in this section shall be construed to prevent any party from bringing a civil action to abate the nuisance.

N. Should any clause or provision in Ordinance 1-2017 shall be deemed invalid by a court of jurisdiction, only that specific clause or provision shall be deemed void. All other items of this regulation shall remain in effect.