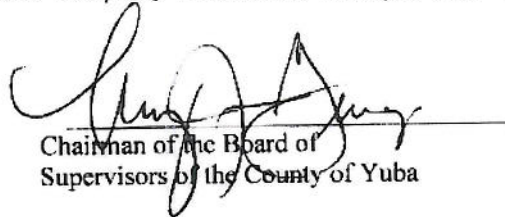


ORDINANCE NO. 1549

ADDING SECTION 8.05.325 OF CHAPTER 8.05 TO TITLE VIII OF THE YUBA COUNTY ORDINANCE CODE RELATING TO BARKING DOGS

The following ordinance, consisting of three (3) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Yuba, State of California, at a regular meeting of the Board of Supervisors held on 13 day of October, 2015, by the following vote:

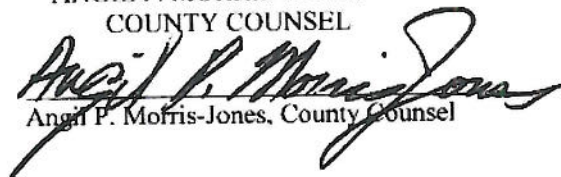
AYES: Supervisors Vasquez, Nicoletti, Griego, Abe, Fletcher
NOES: None
ABSENT: None
ABSTAIN: None


Chairman of the Board of Supervisors of the County of Yuba

ATTEST: DONNA STOTTLEMEYER
Clerk of the Board of Supervisors

By: 

APPROVED AS TO FORM
ANGIL P. MORRIS-JONES
COUNTY COUNSEL


Angil P. Morris-Jones, County Counsel

THE BOARD OF SUPERVISORS OF THE COUNTY OF YUBA, STATE OF CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. This ordinance shall take effect Thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of Yuba, State of California.

Section 2. Section 8.05.325 of Chapter 8.05 to Title VIII of the Yuba County Ordinance Code is hereby added to read as set forth below:

8.05.325. Barking Dogs

(a) Definition.

"Barking dog" means a dog that barks, bays, cries, howls or makes any noise for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of incessant barking for ten (10) minutes or more in any one hour period, or intermittent barking for ten (10) minutes or more during any one hour period. A dog shall not be deemed a "barking dog" for purpose of this section if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is teased or provoked by someone other than the owner.

(b) Applicability.

- (1) This section is applicable in the unincorporated areas of Yuba County.
- (2) This section makes any violation of keeping, maintaining, or permitting a barking dog an infraction subject to a fine.
- (3) This section establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines for barking dog violations pursuant to Government Code section 53069.4 and the County's plenary police power.

- (4) The issuance of an infraction citation under this section is solely at the County's discretion and is one option the County has to address barking dog violations. By adopting this section, the County does not intend to limit its discretion to utilize any other remedy, civil or criminal, including public nuisance remedies.
- (5) The purpose of this section is to encourage voluntary and complete compliance with the provisions of this section and to eliminate nuisances for the protection and benefit of the entire community.
- (6) This section does not apply to dogs that are assisting the owner or responsible person in charge of livestock or ranch operations in the herding or guarding of such livestock or ranch operations.

(c) Barking dog complaint procedure.

- (1) A barking dog complaint is initiated by a complaint filed online or by mail on the forms provided by Animal Care Services.
 - (i) Upon filing of an initial complaint, an Animal Care Services officer will make a personal visit with the dog owner or responsible person to offer information about a dog violation and infraction fine and to provide educational materials and information on dog training courses and trainers.
 - (ii) From the day of the visit, the dog owner or responsible person is allowed ten (10) days to remedy the barking violation.
- (2) If after ten (10) days from the day of the visit the barking violation continues, the original complainant must file a second complaint by mail on forms provided by the department.
 - (i) Upon second complaint, the original complainant must sign a sworn affidavit, under penalty of perjury, that the dog barking is violating the county ordinance.
 - (ii) An Animal Care Services officer will then make a second visit with the dog owner or responsible person and may issue an infraction citation for the barking dog violation.

(d) Barking dog citation—General.

- (1) Any Animal Care Services officer has the authority to issue an infraction citation to any responsible person for a barking dog violation that the Animal Care Services officer did not see or hear occur but is based on a complaint, signed under penalty of perjury by the persons who have been disturbed by the barking dog.
 - (i) A responsible person to whom an infraction citation is issued shall be liable for and shall pay to the County the fine or fines described in the barking dog citation when due.

- (ii) Where the responsible person is a minor under the age of eighteen (18) years, the minor's parents or legal guardian shall be liable for and held responsible for payment of their minor child's citation fines and/or late penalties.
 - (iii) In any case, the responsible person (by his/her parents when the responsible person is under the age of eighteen (18)) shall have the right to contest the infraction citation in court.
- (2) Each day a barking dog violation exists beyond the initial ten (10) calendar day period allowed for correction, shall be a separate violation and be subject to a separate citation and fine. A barking dog civil citation may include a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more code sections.

(e) Barking dog citation—Contents.

Each barking dog citation shall contain the following information:

- (1) Dates on which the complaints established the barking dog violation(s).
- (2) Name of the responsible person for the barking dog violation(s) (if known).
- (3) Address where the barking dog violation(s) occurred.
- (4) The code section(s) violated.
- (5) Whether the violation(s) were established by complainants.
- (6) Amount of the fine for the violation(s) and procedure to pay the fine to avoid a late payment penalty.
- (7) Designation of prior citations issued for the same code violation(s), if known by the Animal Care Services officer.
- (8) Notification of the procedure for requesting a hearing where the infraction may be contested, including the date by which such request must be made.
- (9) A notice that a barking dog violation is a nuisance and that collection of unpaid fines and/or penalties can result in additional fines and penalties.
- (10) Signature of the Animal Care Services officer who issued the barking dog infraction fine.
- (11) Date upon which the barking dog infraction fine was issued.
- (12) Proof of service to be completed by the Animal Care Services officer indicating whether citation was issued by personal service, by mail, or by posting in a conspicuous place on the property where the barking dog violation occurred.
- (13) A self-addressed envelope in which the violator can mail the infraction fine to the department if the citation is not contested.

(14) Any other information deemed necessary by the department for enforcement or collection purposes.

(f) Service of barking dog citation.

A barking dog citation may be served as follows:

- (1) An Animal Care Services officer may personally serve the barking dog citation on the responsible person. The responsible person shall be requested to sign a copy of the citation showing his or her receipt of the citation and notice of the responsible person's right to a court trial. Signing the citation shall not constitute an admission of guilt. A refusal to sign does not invalidate service of the citation.
- (2) An Animal Care Services officer may mail the infraction citation by certified mail, return receipt requested, if the property owner and/or occupier's name is known but the violator is not present when personal service is attempted. The citation shall be mailed to the address where the barking dog violation occurred.
- (3) An Animal Care Services officer may post a copy of the barking dog citation in a conspicuous place on the property where the barking dog violation occurred if the property owner and/or occupier's name is unknown. In this event, the citation shall also be mailed by certified mail, return receipt requested to the owner of the property where the barking dog violation occurred as reflected on the County's property tax rolls. A copy of the citation shall also be mailed within twenty-four (24) hours of posting the citation addressed to "Resident" at the address where the barking dog violation occurred.

(g) Amount of barking dog civil fines.

Violations of this section shall be an infraction. Fines for violating the provisions of this section shall be progressively increased based on the number of violations occurring within the same twelve-month period as follows:

First violation	\$100.00
Second violation in 12 months	\$200.00

Third and each subsequent violation in 12 months	\$500.00
Barking Dog Infraction Fines	

(b) Payment of barking dog infraction fines.

- (1) After receiving a barking dog violation citation, a violator may respond by either of the following methods:
 - (i) The violator may choose to correct the barking dog violation and pay the barking dog citation fine without contesting the fine in court. In that event, payment of the citation fine must be made to the Yuba County Superior Court prior to the date contained in the citation by which the responsible party must request a court trial to contest the fine.
 - (ii) A violator may choose to request court trial by the date contained in the citation. In that event, the fine is due and payable to the court at the conclusion of the trial if the judge upholds the barking dog citation.
 - (A) The judge may allow the violator an additional period of time in which to pay the fine if the judge finds that such additional time for payment is necessary.
- (2) Fines for barking dog violations must be received by the court within fifteen (15) days of the date they are due as specified in subparagraph (a)(1) or (a)(2) above.
- (3) The issuance of a barking dog citation and/or payment of a fine shall not bar the county from taking any other enforcement action regarding a barking dog violation that is not corrected, including issuing additional barking dog citations and/or criminal complaints.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.