

## ***Investigating & Mitigating Nuisance Complaints***

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*BOAH*



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- Common Complaints
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  - Animal Waste
  - Improper Disposal (of carcasses)
  - Frequent “Leash Violations”
  - Property Damage
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- Restitution and Civil Suits



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# What is a Nuisance Complaint



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## Animal Welfare

- Animal cruelty (abuse and neglect) investigations
- Concerns related to sick/injured animals

## Animal Control

- Complaints related to bothersome or annoying behavior
- Complaints related to inconsiderate owners
- Attack/Bite Investigations

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## Common Complaints



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## Sound

- “My neighbor’s dog barks all night. I can’t sleep.”
- “The dog has been barking for hours; it must need help. It’s so abused!”
- “Their farm is so loud all the time. We can’t get any peace and quiet.”



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## Sound

- Typical ordinance format:

- Excessively, continuously, frequently, ongoing

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- Howling, barking, whining, yelping, noises, other utterances, sounds

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- Unreasonable disturbance, discomfort to neighbors, annoying



*How do you determine the meaning of these words?*

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## Sound

- Investigative Tips:

- Consider utilizing a reporting log
- Visit the property to observe at various times (ideally during the reported complaint time)
- Talk to surrounding neighbors




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18100 Cumberland Road • Noblesville, Indiana 46060  
 Administration: (317) 773-1872



1. A person wishing to file a complaint against the owner of an animal creating a disturbance by excessively barking, howling, being at large, aggressive, etc may wish to print and anonymously mail the letter on page 4 and 5 of this document in an attempt to notify your neighbor in a discrete manner that their animal is causing a noise nuisance.
2. If you do not see an improvement in a reasonable amount of time, you might want to consider filing an official complaint with The Hamilton County Sheriff's Office. To do so, you will need to complete the **Nuisance Animal Complaint Form** as well as the **Complaint Log** below. A detailed, specific, and accurately kept log means a better chance of success if the case should be challenged in court.
3. Keep the log for 48 continuous hours. It is not necessary to stay up all night to monitor noise; just note when noise annoys you.

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**NUISANCE (SOUND) ANIMAL REPORTING INSTRUCTIONS**

*Notice*

A person may elect to file a formal nuisance animal (refer to Ordinance 2018-02 section 93.02 for further) complaint against the owner of a domestic animal that is excessively making disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept.]

In order to do so, the person **must** complete the provided log within one week of the initial response of the Animal Control Officer (ACO) or an agent acting on behalf of the ACO.

After completion of the log and observations made by the ACO, the ACO will review the circumstances and make a determination on how to proceed with the investigation. Completion of the log **does not** guarantee action will be taken against the owner of the involved domestic animal.

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*Instructions*

The person electing to file a formal nuisance animal complaint must complete the log below thoroughly, honestly, and legibly in order for the ACO to proceed with the investigation.

The person completing the log **must be a resident** of a structure in the immediate area of the location of the animal in question or an employee of a business in the immediate area of the location of the animal in question.

*Disclaimer*

By completing this log, the person is stating that during the dates and times indicated, the noises created by the domestic animal in question were particularly loud, annoying, and disturbing causing a general disturbance. If legal action is taken and a trial is set, the person may be subpoenaed and required to testify in court based on the information provided in the log.

#	Date	Start Time	End Time	Owners home?	Location of Animal	Description of Event
1				Yes No Unknown		
2				Yes No Unknown		

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**It is unlawful for a person to own or keep any animal that causes a disturbance to persons in the vicinity. (Revised Code of the Consolidated City of Indianapolis and Marion County Sec. 531-204)**

The individual whom you have named as the suspected owner of the nuisance animal has received notice that an initial complaint has been filed. If the nuisance persists after seven (7) days, in order for IACS to take enforcement action for this violation, it is necessary that you provide us with the following:

- Two-week log of disturbances caused by the nuisance animal, including dates and times,
- Time/date stamped photos/videos you may have taken of the nuisance animal activity,
- The names, addresses, and telephone numbers of at least one (1) witness, living outside of your own home, that would be willing and able to testify to the nuisance.
  - Multiple witnesses are helpful to the City Prosecutor when presenting the case to the court.

Upon receipt of this information, IACS will review all documentation and determine if any citable violations exist. If citations are issued, the Office of the City Prosecutor will take legal action and you will then be notified by that office.

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## Animal Waste

- Other potential violation:
  - Off-property
- Other potential agencies:
  - Local health department
  - Zoning/code enforcement



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## Animal Waste, *cont.*

- Investigative Considerations:
  - How do you prove what animal it actual came from?



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## Animal Waste, *cont.*

- Investigative Considerations:
  - Could it be better handled by someone else (HOA, property management, etc)?
  - Do you have *time* to spend on these types of complaints? Be sure you are prioritizing caseloads.



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## Improper Disposal

- State rules apply to carcasses from livestock (including horses) and poultry
  - *Not:* Pets, roadkill, wildlife
- Other potential agencies:
  - Local health department
  - **Board of Animal Health (BOAH)**
    - [www.in.gov/boah/boah-rules/compliance-issues/dead-animal-disposal-options-in-indiana/](http://www.in.gov/boah/boah-rules/compliance-issues/dead-animal-disposal-options-in-indiana/)



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## Improper Disposal, *cont.*

- IC 15-17-11-20 Disposal of dead animals required
- Sec. 20. (a) A person who owns or cares for an animal that has died from any cause shall dispose of the animal's body not later than 24 hours after knowledge of death:
  - Disposal plant
  - Burial/Above-ground Burial
  - Incineration
  - Composting



(Renderer, Anaerobic/Chemical Digestion, Exotic Animal Feeding)



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## Frequent “Leash Violations”

- Factors to Consider:

- Species
- Frequency
- Level of aggression
- Previous enforcement action
- Owner’s mitigation steps

All of Dorothy's troubles could've been avoided if she had just put Toto on a leash.



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## “Leash Violations”, *cont.*

- Progressive Enforcement
  - Encourage the complainant to have a civil conversation with the other animal’s owner (if safe to do so)
  - Verbal warning
  - Written warning
  - Citation(s)
  - Impoundment (*can* impound on first offense)
  - Owner forfeiture

***DOCUMENT!***



23

## Property Damage

- In addition to injuring or killing other animals, animals can cause damage to:
  - Structures/fencing
  - Vehicles
  - Crops



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## Property Damage, *cont.*

- Response:
  - Complete a report with a narrative and pictures
  - Pursue appropriate enforcement action
  - Refer property owner to insurance provider



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## Impounding Nuisance Animals



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## IC 35-46-3-6

- Violations related to:

- ★ • IC 15-20-1-4
- (and IC 35-46-3)

- Wording:

- (b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been **a** violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.



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## Local Ordinances

- Jurisdiction specific
- May cover more than state code
- May not have efficient timelines



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## Disposition

- IC 35-46-3-6 outlines bonding/hearing information
  - To be reviewed in detail later in the course
- Local ordinances typically have their own recourse



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## Restitution and Civil Suits



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**IC 15-20-2-1****Liability of owner or harbinger**

Sec. 1. If a dog kills or injures any livestock while the livestock is in the care, custody, and control of the livestock's owner or the owner's agent, the owner or harbinger of the dog is liable to the owner of the livestock for all damages sustained, including reasonable attorney's fees and court costs.

The screenshot shows the Farmers Insurance website. The main heading is "If a Squirrel Damages My Car, Will My Insurance Provide Coverage?". Below the heading is a "Quick Take" section with the text: "Quick Take: If a squirrel damages my car, will my insurance provide coverage?". There are four bullet points:
 

- Comprehensive insurance covers damage to your car not caused by a collision.
- This may include damage done by animals of all types and sizes. (This line is highlighted with a red box in the original image)
- It may also cover theft, vandalism, fire and weather damage.
- Comprehensive coverage can be added to your auto policy for an additional premium.

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**15-20-1-3 Liability of owner for unprovoked dog bites**

Sec. 3. (a) If a dog, without provocation, bites a person:

- (1) who is acting peaceably; and
- (2) who is in a location where the person may be required to be in order to discharge
  - (A) the laws of Indiana;
  - (B) the laws of the United States; or
  - (C) the postal regulations of the United States;

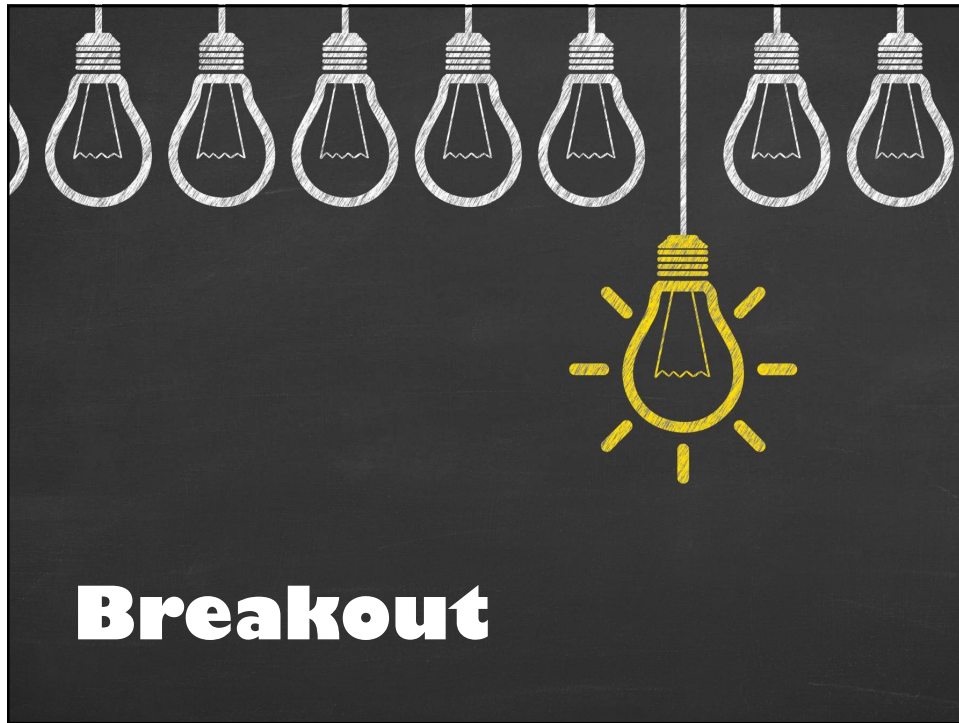
★ the owner of the dog is liable for all damages suffered by the person bitten.

(b) The owner of a dog described in subsection (a) is liable for damages even if:

- (1) the dog has not previously behaved in a vicious manner; or
- (2) the owner has no knowledge of prior vicious behavior by the dog.

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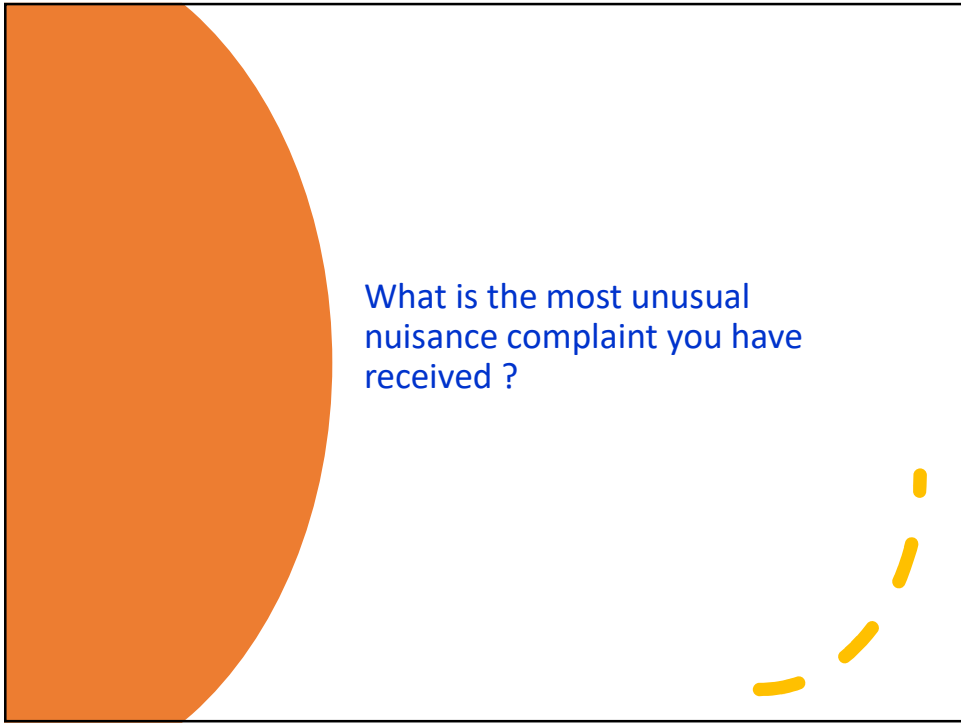




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