

ORDINANCE NO. 821
ORDINANCE AMENDING
STEBEN COUNTY ORDINANCE 90.15 (ORDINANCE 655)
"ANIMALS AT LARGE"

By repealing Ordinance 90.15 "ANIMALS AT LARGE" and replacing it as follows:

BE IT ORDAINED, by the Commissioners of Steuben County, Indiana:

Section 1. Definition Of Terms. As used in this ordinance.

- 1.1 "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.
- 1.2 "Vicious Dog" means:
 - 1.21 Any dog with a known vicious propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or any dog which after examination by a panel of one veterinarian, one member of the county health board and one member of the staff at the Steuben County Animal Shelter that is found to be vicious in a written report showing that the panel did physically observe the dog and find the dog to exhibit a vicious propensity. No portion of this Ordinance is applicable to dogs owned by or utilized by Law Enforcement Agencies.
 - 1.22 Any dog which because of its vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger of life or property if it were not kept in the manner required by this ordinance; or
 - 1.23 Any dog which, without provocations, attacks or bites, or has attacked or, bitten a human or domestic animal; or
 - 1.24 Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- 1.3 A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has not bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

Section 2. Dogs Barking And At-Large. It is unlawful for any person owning, keeping, or harboring or having the care, custody, or control of a dog to allow, suffer, or permit such dog to bark, howl, growl, or yelp or whine to the annoyance of other persons or the disturbance of the peace and quiet of the neighborhood, or to allow, suffer, or permit a dog owned by him or in his care, custody, or control to be at large upon the streets or other public places or upon the premises of other persons without permission. Any violation of this section is per se a public nuisance.

Section 3. Leash And Muzzle. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human or animal.

Section 4. Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal. Failure to post the notice as provided shall be deemed to be a violation of this ordinance and subject to a civil penalty as provided herein.

Section 5. Dog Fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

Section 6. Insurance. Owners of a vicious dog must provide proof of public liability insurance in the amount of at least \$100,000.00 insuring the owner for any personal injuries inflicted by his or her vicious dog. Any person found to be in possession of such a dog without such insurance shall be in violation of this Ordinance and be subject to a civil penalty as provided herein.

Section 7. Penalties And Procedures. Enforcement of this ordinance shall be in any court of general jurisdiction in Steuben County, Indiana.

Any person found in violation of Section 3 or Section 4 or Section 5 or Section 6 shall be subject to a civil penalty of One hundred dollars (\$100.00) per day , and upon delivery of notice to the owner of such violation by any law enforcement officer, the continued violation of said ordinance by the owner shall be a separate violation for each calendar day that said owner allows such violation to continue.

In the event that a law enforcement officer of this state, including any city, county or state policeman shall show probable cause to any court of general jurisdiction of Steuben County, that there is a continuing day to day violation of this ordinance by any owner, the court may issue an order directing that the officer be authorized to proceed onto the premises where the dog is located and that such dog be seized and taken to the Steuben County Animal shelter, and there to be retained for ten days, to allow the owner to show proof of compliance with the law to the Sheriff of Steuben County and pay said shelter Fifty dollars (\$50.00) per day for the care and boarding of such dog to obtain the release thereof. In the event that said dog is not redeemed as provided the dog shall be euthanized and disposed of at the owner's expense, which expense shall be collectable in the Steuben Circuit or Superior Court, be brought in the name of Steuben County by the county attorney for the account due, court costs, and a reasonable legal fee, and any such judgment that should result shall be enforceable as all judgments are provided to be enforced by the laws of Indiana.

In the event that such dog shall attempt to attack a humane officer or law enforcement officer attempting to enforce any portion of this ordinance the office shall be authorized to destroy the dog at the site of attack and the owner shall have no redress for the destruction of the dog against the County of Steuben or the officer attacked or any of the officials or agencies of Steuben county, or the State of Indiana or any political subdivision thereof.

Section 8. Every owner of every dog harbored in Steuben County shall affix to the dog a tag to be worn by the dog at all times showing the name and address of the owner and any dog found to be off of the premises of the owner without such tag shall be taken into custody by any humane officer, dog officer, or law enforcement officer of any political subdivision of the State of Indiana and said dog shall be deposited at the Steuben county Animal Shelter. Thereafter the dog may be destroyed within ten (10) days, as a dog with owner unknown.

Every dog found off of the premises of the owner with a tag identifying the name and address

of the owner affixed to the dog shall be seized by any humane officer, dog officer or law enforcement officer of any political subdivision of Indiana and taken to the Steuben County Animal Shelter, and there held for ten (10) days and thereafter destroyed if not redeemed by the owner by payment of Fifty (\$50.00) dollars per day for the keep of said dog at the shelter, to be paid by the owner to the Steuben County Animal Shelter and the cost of the keep and destruction shall be collectable as an account due by Steuben County in the Steuben Circuit or Superior Court in an action brought by the county for the total amount of charges, plus court costs and a reasonable legal fee. Such judgment to be enforced as provided for in the Statutes of Indiana. The destruction of such dog shall be without recourse by the owner against the County of Steuben, the Steuben County Animal Shelter or any officer or political subdivision of the State of Indiana if the owner as shown on the identification tag affixed to the dog was served with a notice in writing of the seizure and detention, served either by affixing the notice to the door of the addressed premises shown on the tag or United States mail sent to that address postage prepaid. No dogs shall be released by the shelter until claimant furnishes valid proof of rabies immunization.

Section 9. In the event that a law enforcement officer of this state, including city, county or state policeman shall show probable cause to any court of general jurisdiction of Steuben County, that a person is harboring any domestic animal without adequate food, water or shelter, the court may issue an order that such officer be authorized to proceed onto the premises where such domestic animal is kept, and there seize such animal to be placed into protective custody, with the aid and assistance of the Steuben County Humane Shelter.

The Steuben County Humane Shelter shall have authority to care for such animal for ten (10) days to allow the owner to show proof of his ability to provide adequate food, water and humane shelter for such animal, and shall pay said shelter Fifty (\$50.00) dollars per day for the care of such seized animal. After ten (10) days, should the owner of such animal fail to show provision for such animal, the Steuben County Humane Shelter staff may dispose of such animal if the owner thereof was served with written notice of the seizing and detention, served either by affixing the notice to the door of the owner's premises or United States mail sent to that address postage prepaid.

The disposition of such domestic animal shall be without recourse by the owner against the County of Steuben, the Steuben County Humane Shelter or any officer or political subdivision of the State of Indiana.

All **expenses** associated with the seizure, care, recovery or disposition of such domestic animal by the Steuben County Humane Shelter, may be recovered in the Steuben Circuit or Superior Court from and against the owner as an account due. Such action shall be brought in the name of Steuben County for the account due, court costs, and reasonable costs of collection, including attorney fees, and any such judgment that should result there from may be enforced pursuant Indiana Law.

Section 10. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court, such a decision shall not affect the validity of the remaining portions of this ordinance.

Section 11. Effective Date. This ordinance shall be in full force and effect from and after its passage and signing by the Steuben County Commissioners, and advertised in accordance with the requirements of the Statutes of the State of Indiana. All prior ordinances on this subject are hereby repealed to the extent they are inconsistent.

All of which ordained this 27th day of December, 2011.

1st Reading - 12/27/11
2nd " 12/27/11
3rd " 12/27/11

STEBEN COUNTY BOARD OF COMMISSIONERS

Ronald L. Smith, President, South District
James A. Crowl, Vice President, Middle District
Loretta S. Smart, North District

Attest: Pamela Coleman, Auditor