

## Chapter 8.10

### NOISY ANIMALS

#### Sections:

8.10.010	Purpose.
8.10.015	Definitions.
8.10.020	Administrative Hearing Officer.
8.10.030	Declaration of noisy animal as a public nuisance.
8.10.040	Noisy Animal Warning Notice.
8.10.050	Declaration of Complaint of Noisy Animal and Petition for Administrative Hearing.
8.10.065	Hearing.
8.10.070	Determination and order.
8.10.080	Administrative abatement measures.
8.10.090	Failure to Comply with Administrative Order.
8.10.095	Civil action.
8.10.100	Not exclusive remedy.
8.10.110	Severability.
8.10.115	Judicial review.

#### Section 8.10.010 Purpose.

The disturbance caused by excessive, unrelenting or habitual noise of any animal is disruptive of the public's peace and tranquility and represents an unwanted invasion of privacy of the residents of the City. It is declared to be in the public interest to promote the health and welfare of the residents of the City by providing for an administrative proceeding for the abatement of such nuisances, which abatement procedures shall be in addition to all other proceedings authorized by this Code or otherwise by law. (Ord 6797 § 1, 2005; Ord 6223 § 1 (part), 1995)

#### Section 8.10.015 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings given herein:

"Director of Animal Services" means the person designated by the City Council as the Animal Control Director of the City whether employed by the City or by the animal control contractor retained by City to provide animal control enforcement or the designee of such Director of Animal Services, or his/her authorized designee.

"Complaining Party" means that person or those persons who contact the Animal Control Director to report a noisy animal or noisy animals.

"Noisy animal" means any animal or animals maintained on the same premises or location whose unprovoked excessive, unrelenting or habitual barking, howling, crying or other noises or sounds occurring continuously and/or incessantly for a period of ten minutes or intermittently for one-half hour or more on five or more separate days within a thirty (30) day period annoy or become offensive to a resident or residents, other person, or animal control officer in the vicinity thereby disturbing the peace of the neighborhood or causing excessive discomfort to any reasonable person of normal sensitivity hearing such sounds.

"Responsible party" means that person or those persons in charge of the premises or location where any noisy animal is located and may include any of the following:

1. The person or persons who own the property where the noisy animal is located;
2. The person or persons in charge of the premises where the noisy animal is located;

3. The person or persons occupying the premises where the noisy animal is located;
4. The owner of the noisy animal.

If any of those persons are minors, the parent or parents or a guardian of such minor shall be the responsible party. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

#### **Section 8.10.020 Administrative Hearing Officer.**

A determination whether an animal is violating this Chapter shall be made by the City of Riverside's Administrative Hearing Officer. The administrative hearing officer shall have the power to hear testimony from witnesses including complainants, peace officers, animal control officers or State humane officers or other parties including the owner or person having charge, custody or control of the animal allegedly causing the nuisance, to determine whether the maintenance of the animal is a public nuisance as herein declared by the City Council, and to order the abatement of such nuisance by taking such actions as set forth in this Chapter. (Ord. 6797 §1, 2005; Ord. 6635 §1, 2002; Ord. 6223 § 1 (part), 1995)

#### **Section 8.10.030 Declaration of noisy animal as a public nuisance.**

A. The City Council hereby determines and declares that it is unlawful and a public nuisance for any person owning, keeping, harboring or having in his or her care, custody or control any animal, ~~to cause or suffer, or permit to be made or caused by such animal, barking, howling, crying or making of any noises or other sounds, so as to annoy and become offensive to a resident or residents in the vicinity in which the animal is kept thereby disturbing the peace of the neighborhood or causing excessive discomfort to any reasonable person of normal sensitivity residing in the area which constitutes a Noisy Animal as defined by this Chapter,~~ unless such noise or sound is made by an official police dog while on duty.

B. If, in violation of the provisions of this declaration of nuisance, any person owns, maintains, harbors, keeps or has any ~~animal who persistently emits any noises or sounds in such a manner as to annoy and become offensive to a resident or residents in the vicinity in which the animal is kept~~Noisy Animal, the maintenance of such animal may be declared a public nuisance by written notice to the owner or person in charge, custody or control of the animal. If after the issuance of such notice, the person owning, keeping, harboring or having in such person's care or custody any ~~animal~~Noisy Animal has not abated the nuisance, such person shall be liable to enforcement of the provisions of this Code.

C. It is unlawful for the Responsible Party, after being informed in writing that such person's animal has been declared a ~~N~~oisy ~~a~~Animal and that the maintenance of a ~~N~~oisy ~~a~~Animal is a public nuisance, to fail, refuse or neglect to take whatever steps or use whatever means are necessary to assure that such animal does not again disturb residents in the vicinity in which the animal is kept. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

#### **Section 8.10.040 Noisy Animal Warning Notice.**

A. When an animal control officer or police officer of the City is notified or alerted of a possible noisy animal which may constitute a nuisance and has personally confirmed the existence of a potential nuisance, or has received a written complaint under penalty of perjury of such noisy animal signed by the complaining party, that animal control officer or police officer shall issue a Noisy Animal Warning Notice to the Responsible Party. Such notice shall specify that the continued barking, howling or other noise or sounds of such animal is in violation of this Code and that the noisy animal nuisance must be abated forthwith to avoid further City action. Such notice shall be served upon the Responsible Party or, if such service cannot be safely made, posted at the premises upon which the animal is located. A copy of the Noisy Animal Warning Notice shall be filed with the Director of Animal Services. The Director of Animal Services shall, within five days of the issuance of said warning notice, make a reasonable

attempt to speak personally or by telephone with the Responsible Party concerning the matter, including what efforts have been made to abate the nuisance.

B. If within five days of the issuance of the Noisy Animal Warning Notice the Director of Animal Services determines that the barking, howling or other sound or cry was provoked and that such barking, howling or other sound or cry was not excessive, unrelenting or habitual, the Director of Animal Services shall cause the Noisy Animal Warning Notice to be voided and the person to whom it was issued to be so notified. In the event a Noisy Animal Warning Notice has been voided, such warning notice shall not be considered as having been issued for the purposes of Sections 8.10.050 or 8.10.085 of this title. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

#### **Section 8.10.050 Declaration of Complaint of Noisy Animal and Petition for Administrative Hearing.**

A. When the Director of Animal Services receives a subsequent verbal or written complaint concerning a ~~Noisy~~ Animal at the same location within twelve months after the issuance of a Noisy Animal Warning Notice, the Director of Animal Services shall determine whether the Noisy Animal Warning Notice went unheeded. If the determination is made the nuisance was not abated, a Declaration of Complaint of Noisy Animal and Petition for Administrative Hearing ~~shall~~ may be issued by the Director of Animal Services to the Complaining Party.

B. The Declaration of Complaint and Petition for Administrative Hearing shall be completed under penalty of perjury by the Complaining Party or by an animal control officer who has personally confirmed the continued existence of a potential nuisance and returned within ten (10) days to the Director of Animal Services.

C. The Director of Animal Services, upon receipt of a timely executed Declaration of Complaint and Petition for Administrative Hearing, shall set the case for hearing before the City's Administrative Hearing Officer. The hearing shall be set at least 10 days from the date the Declaration is received and no more than 30 days. The Director of Animal Services shall notify the Complaining Party and Responsible Party of the date, time, and place for the hearing. The notice of hearing shall advise that the Complaining Party and Responsible Party that they may present evidence at the hearing through witnesses and documents. The notice of hearing shall be accompanied by a copy of the Declaration of Complaint and Petition for Administrative Hearing form. The notice shall be personally served on all parties and witnesses. If the notice cannot be safely served by personal service, then it may be posted upon the premises where the animal is kept and sent by first-class mail. The complaining party shall be informed that further action may not be warranted if the animal is controlled, but in any case, no further action can be taken until the completed Declaration of Complaint and Petition for Administrative Hearing form is received by the Animal Control Director. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

#### **Section 8.10.065 Hearing.**

The hearing before the Administrative Hearing Officer shall be open to the public. The Administrative Hearing Officer may admit all relevant evidence, including incident reports and affidavits of witnesses. The Administrative Hearing Officer may decide all issues even if the Responsible Party for the animal fails to appear at the hearing. The Administrative Hearing Officer may find, upon a preponderance of the evidence, that the animal is a noisy animal and the maintenance of such noisy animal is a public nuisance. Upon the conclusion of the hearing, the Hearing Officer shall orally announce the decision as to whether a public nuisance has been found to exist on the premises. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.070 Determination and order.**

Within three business days after the conclusion of the hearing conducted pursuant to Section 8.10.060, the Administrative Hearing Officer shall, by certified mail, return receipt requested, notify the Responsible Party of the Officer's determination and any orders issued. If the Officer determines that the animal is a noisy animal and the maintenance thereof, a public nuisance, the Responsible Party shall comply with the Officer's order within five days after the date of mailing of the determination and order. The decision of the Officer shall be final. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.080 Administrative abatement measures.**

The Administrative Hearing Officer may, as part of his/her determination that the animal is a noisy animal and a public nuisance, direct the Responsible Party to perform one or more of the following actions [this list is illustrative rather than comprehensive]:

A. Containment of the animal within an enclosed building on the premises of Responsible Party;

B. Require that the animal wear a noise suppression device obtained at the expense of the Responsible Party to reduce or eliminate the noise creating the nuisance;

C. Require that the animal undertake obedience training designed to abate the nuisance problem when appropriate and under the conditions imposed by the Hearing Officer and at the expense of the Responsible Party;

D. Restrict the time of day, days of the week and duration when the animal may be placed out-of-doors on the premises of the Responsible Party;

E. Require the animal to be debarked at the expense of the Responsible Party;

F. Require the Responsible Party to permanently remove the animal from said property and outside the City limits.

G. Any other reasonable means to accomplish the abatement. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.090 Failure to Comply with Administrative Order.**

It is unlawful for any person to fail, neglect or refuse to comply with an administrative abatement order of the Administrative Hearing Officer within the time specified in said order. Should any party to the order issued by the Administrative Hearing Officer fail to comply with the order, in whole or in any part thereof, that party or those parties may be subject to administrative remedies to enforce the order as set forth in this Code, including administrative citations and administrative civil penalties, and any other lawful means necessary to gain compliance, including a civil action. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.095 Civil action.**

In the event any person shall fail, neglect or refuse to comply with an administrative abatement order of the Administrative Hearing Officer within the time specified in said order and the public nuisance continues to exist, the City Attorney is authorized to commence civil action to obtain the abatement of such public nuisance. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.100 Not exclusive remedy.**

The provisions of this chapter are to be construed as an added remedy of abatement of the nuisance hereby declared and not in conflict with or derogation of any other actions or proceedings or remedies otherwise provided by this title or other law. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.110 Severability.**

If any section, subsection, sentence, clause or phrase in this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 6797 § 1, 2005; Ord. 6223 § 1 (part), 1995)

**Section 8.10.115 Judicial Review.**

Any Responsible Party aggrieved by an Administrative Determination and Order may obtain judicial review of that order by filing a petition for review with the Superior Court of Riverside County in accordance with the timelines and provisions set forth in California Code of Civil Procedure section 1094.6. (Ord. 7269 § 6, 2014)