

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND ADOPTING
DESIGNATED SECTIONS OF DIVISION 1 OF TITLE 4
OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE
PERTAINING TO ANIMAL CONTROL, WELFARE AND LICENSE REQUIREMENTS

The Board of Supervisors of the County of Orange, California, ordains as follows:

SECTION 1: Section 4-1-3 of the Codified Ordinances of the County of Orange is hereby amended to read as follows:

Whereas, Barking Dog and Animal Nuisance violations are a significant issue affecting the quality of life for County of Orange residents and visitors, interfering the peace and comfort of neighborhoods and the comfortable enjoyment of life or property;

Whereas, an effective, efficient, and expeditious process for addressing Barking Dog and Animal Nuisance complaints is a necessary public service;

Whereas, such a process needs to create a forum in which affected people can resolve these issues through complaints and responsible persons are afforded the opportunity for a fair and impartial administrative hearing;

Whereas, OC Animal Care can act as a neutral party and facilitate the resolution of Barking Dog and Animal Nuisance complaints;

Sec. 4-1-3. Barking Dog and Animal Nuisance Definitions (B)

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 30 minutes or more in any 24-hour period, or intermittent barking that accumulates to a total of 60 minutes or more during any 24-hour period. A dog shall not be deemed a “Barking Dog” for purposes of this Article if, at any time, the dog is barking, a person is trespassing upon private property in or upon which the dog is situated, or when the dog is being teased or provoked.

Animal Nuisance means any animal other than a dog that makes a noise which emanates from the animal not resulting in contact with another object or structure. The noise must be for an extended period of time to the disturbance of any person at any time of day of night, regardless of whether the animal is physically situated in or upon private property. Such extended period of time shall consist of incessant noise for a continuous 30 minutes or more in any 24-hour period, or intermittent noise that accumulates to a total of 60 minutes or more during any 24-hour period. For the purposes of this Article, a noise is not considered a violation if it is due to actions such as the animal kicking a stall or enclosure, dragging of a chain, rattling of a collar, or if the nails of an animal are scratching or clawing on a door, enclosure or other object. An animal shall not be deemed an “Animal Nuisance” for purposes of this Article if, at any time, the animal is creating a noise disturbance, a person is trespassing upon private property in or upon which the animal is situated, or the animal is being teased or provoked.

1 **SECTION 2:** Subarticle 1 of Article 2 of Division 1 of Title 4 of the Codified Ordinances of the
2 County of Orange is hereby adopted, and shall read as follows:

3 **Subarticle 2. Barking Dog Violation and/or Animal Nuisance Civil Fine**
4

5 **Sec. 4-1-59.1. Applicability, Barking Dog and Animal Nuisance**

- 6 (a) Any violation for keeping, maintaining, or permitting a Barking Dog or any Animal Nuisance as
7 defined in section 4-1-3 is subject to civil fine.
- 8 (b) This subarticle establishes the administrative procedures for the imposition, enforcement,
9 collection, and administrative review of civil fines for Barking Dog and Animal Nuisance
10 violations pursuant to Government Code section 53069.4 and the County's plenary police power.
- 11 (c) The issuance of a Civil Citation under this subarticle is solely at the County's discretion and is one
12 option the County has to address Barking Dog or Animal Nuisance violations. By adopting this
13 subarticle, the County does not intend to limit its discretion to utilize any other remedy, civil or
14 criminal in nature.
- 15 (d) The purpose of issuing Civil Citations pursuant to this subarticle is to encourage voluntary and
16 complete compliance with the provisions of this Code and to eliminate nuisances for the protection
17 and benefit of the entire community.

18 **SECTION 3:** Section 4-1-59.2 of the Codified Ordinances of the County of Orange is hereby adopted,
19 and shall read as follows:

20 **Sec. 4-1-59.2. Definitions**

21 The following definitions apply to the use of these terms for the purposes of this subarticle:

- 22 (a) OC *Animal Care* means the department within Orange County Community Resources authorized to
23 perform the functions described in sections 4-1-1 through 4-1-180 of this Division and any other
24 ordinance or law that delegates such authority to the OC Animal Care department or its director.
- 25 (b) *County* means the County of Orange.
- 26 (c) *Civil Citation* means a notice issued pursuant to this subarticle that there has been a violation of this
27 subarticle.
- 28 (d) *Day* or *days* as used in this Article shall mean calendar day or calendar days, respectively, unless
otherwise expressly provided. The time in which any act provided by law is to be done is computed
by excluding the first day and including the last, excluding any holidays.
- (e) *Director* means the OC Animal Care Director, or his or her designee.
- (f) *Enforcement Officer* means any OC Animal Care employee or agent designated in writing by the
Director.

1 (g) **Hearing Officer** means a person appointed by the OC Animal Care Director or designee to serve as
2 a Hearing Officer for administrative hearings.

3 (h) **Issued** means giving a Civil Citation to a violator. Issuance occurs on the date when a Barking Dog
4 or Animal Nuisance Civil Citation is personally served on the violator, or the date it is mailed to the
5 property where the Barking Dog or Animal Nuisance is located or where the Barking Dog or
6 Animal Nuisance violation occurred, or the date the citation is posted in a conspicuous place either
7 on the property where the Barking Dog or Animal Nuisance is located or where the Barking Dog or
8 Animal Nuisance violation occurred. When service is made by posting, the Barking Dog or Animal
9 Nuisance citation, the citation shall also be mailed within 24 hours of posting to any address known
10 for the violator.

11 (i) **Notice of Decision** means a form used by a Hearing Officer to inform a violator and/or
12 Complainant of an administrative hearing decision regarding provisions of this subarticle.

13 (j) **Complainant** means any person who witnesses, observes or experiences a Barking Dog or Animal
14 Nuisance violation per section 4-1-3 Definitions. For the purposes of this ordinance, a Complainant
15 cannot be a party that files on behalf of another person who witnesses the violations such as a
16 landlord or property management company. (k) **Owner** means any person who possesses, has title
17 to or an interest in, harbors or has control, custody or possession of a dog, or any other animal and
18 the verb forms of “to own” shall include all those shades of meaning.

19 (l) **Responsible Person.** A Responsible Person may also be referred to as a “violator” herein. A
20 Responsible Person is any of the following:

21 (1) A person who allows a Barking Dog or Animal Nuisance violation to exist, whether through
22 willful action, failure to act, or failure to exercise proper control over a Barking Dog or any other
23 Animal Nuisance.

24 (2) A person whose agent, employee, or independent contractor allows a Barking Dog or
25 Animal Nuisance violation to exist, whether through willful action, failure to act, or failure to
26 exercise proper control over a Barking Dog or Animal Nuisance.

27 (3) A person who is the owner of, and a person who is a lessee or sublessee with the current
28 right of possession of, real property in or upon which a Barking Dog or Animal Nuisance
violation occurs.

(4) For purposes of this subarticle, “person” includes a natural person or legal entity, and the
owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

(5) For the purposes of this subarticle, there may be more than one Responsible Person for a
Barking Dog or Animal Nuisance violation. A Responsible Person, subject to the provisions of
this subarticle, must be at least 18 years of age.

SECTION 4: Section 4-1-59.3 of the Codified Ordinances of the County of Orange is hereby adopted,
and shall read as follows:

1 **Sec. 4-1-59.3. General, Barking Dog or Animal Nuisance Citation**

2 (a) Any Enforcement Officer has the authority to issue a Civil Citation to any Responsible Person for a
3 Barking Dog or Animal Nuisance violation that the Enforcement Officer did not see or hear occur
4 based on a complaint, signed under penalty of perjury, lodged by a member of the community who
5 has been disturbed by the Barking Dog or Animal Nuisance. A Responsible Person to whom a Civil
6 Citation is issued shall be liable for and shall pay to the County the fine or fines described in the
7 Barking Dog or Animal Nuisance citation when due. In any case, the Responsible Person) shall
8 have the right to appeal the issuance of the citation pursuant to the provisions of this subarticle.

9 (b) Prior to issuing a Civil Citation for a Barking Dog or Animal Nuisance the Responsible Person shall
10 be given a 10-day period within which to correct the problem. If after this (10) ten day period, the
11 Barking Dog or Animal Nuisance issue still occurs, the Complainant shall be given a thirty (30) day
12 period in which to report a subsequent violation by the completion of an affidavit, signed under
13 penalty of perjury, reporting the date and time of the violation.

14 If a subsequent violation is not reported within the thirty (30) day period, the Complainant must start
15 the process over and file another initial complaint, allowing for ten (10) day waiting period, if they
16 choose to continue the complaint.

17 (c) A Barking Dog or Animal Nuisance Civil Citation may include a violation for one (1) or more days
18 on which a violation exists, and for violation of one (1) or more Code sections.

19 (d) The filing of an initial complaint opens a file for the Complainant against the Responsible Person.
20 Each file shall remain open until the expiration of the thirty (30) day period without the issuance of a
21 citation, or until a citation is ultimately dispositioned by an administrative Hearing Officer or voided
22 by OC Animal Care. A respective Complainant can only have one (1) open complaint against a
23 respective Responsible Person at any time.

24 **SECTION 5:** Section 4-1-59.4 of the Codified Ordinances of the County of Orange is hereby adopted,
25 and shall read as follows:

26 **Sec. 4-1-59.4. Barking Dog or Animal Nuisance Citation Contents**

27 Each Barking Dog or Animal Nuisance citation shall contain the following information:

- 28 (a) Date on which a complaint established the Barking Dog or Animal Nuisance violation(s).
(b) Name of the Responsible Person for the Barking Dog or Animal Nuisance violation(s) (if known).
(c) Address where the Barking Dog or Animal Nuisance violation(s) occurred.
(d) The Code section(s) violated.
(e) Whether the violation(s) were established by Complainant.
(f) Amount of the fine for the violation(s) and procedure to pay the fine to avoid a late payment penalty.

- 1 (g) Designation of prior Civil Citations issued for the same Code violation(s), if known by the
2 Enforcement Officer.
- 3 (h) Notification of an assigned administrative hearing date, time and location where the civil fine may
4 be contested.
- 5 (i) Description of the procedure for requesting a continuance of the assigned administrative hearing.
- 6 (j) A notice that a Barking Dog or Animal Nuisance violation is a nuisance and that collection of
7 unpaid fines and/or penalties can result in additional fines, penalties and/or imprisonment in the
8 County jail.
- 9 (k) Signature of the Enforcement Officer who issued the Barking Dog or Animal Nuisance citation
10 and/or civil fine.
- 11 (l) Date upon which the Barking Dog or Animal Nuisance citation and/or civil fine was issued.
- 12 (m) Proof of service to be completed by the Enforcement Officer indicating whether citation was
13 issued by personal service, by mail, or by posting in a conspicuous place on the property where
14 the Barking Dog or Animal Nuisance violation occurred.
- 15 (n) A self-addressed envelope in which the violator can mail the civil fine to the County if the citation
16 is not contested.
- 17 (o) Any other information deemed necessary by the Enforcement Officer for enforcement or
18 collection purposes.

19 **SECTION 6:** Section 4-1-59.5 of the Codified Ordinances of the County of Orange is hereby adopted,
20 and shall read as follows:

21 **Sec. 4-1-59.5. Service of Barking Dog or Animal Nuisance Citation**

22 A Barking Dog or Animal Nuisance citation may be served as follows:

- 23 (a) An Enforcement Officer may personally serve the Barking Dog or Animal Nuisance citation on the
24 Responsible Person. The Responsible Person shall be requested to sign a copy of the citation
25 showing his or her receipt of the citation and notice of the Responsible Person's right to an
26 administrative hearing. Signing the citation shall not constitute an admission of guilt.
- 27 (b) An Enforcement Officer may mail the Civil Citation by certified mail, return receipt requested, if
28 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 or Animal
Nuisance violation occurred.
- (c) An Enforcement Officer may post a copy of the Barking Dog or Animal Nuisance citation in a
conspicuous place on the property where the Barking Dog or Animal Nuisance violation occurred if
the property owner and/or occupier's name is unknown. In this event, the citation shall also be

1 mailed addressed to the owner of the property where the Barking Dog or Animal Nuisance violation
2 occurred as reflected in a reliable database or other resource that is assessable to the Enforcement
3 Officer as researched using research from a reliable source. A copy of the citation shall also be
4 mailed within 24 hours of posting the citation addressed to “Responsible Party” at the address
5 where the Barking Dog violation occurred.

6 **SECTION 7:** Section 4-1-59.6 of the Codified Ordinances of the County of Orange is hereby adopted,
7 and shall read as follows:

8 **Sec. 4-1-59.6. Amount of Barking Dog Civil Fines**

9 Fines for a Barking Dog or Animal Nuisance Violation (per citation) as provisioned within this
10 subarticle, shall be as follows:

11 First Offense:	\$250.00
12 Second Offense within Same 12-Month Period:	\$275.00
13 Third Offense within Same 12-Month Period:	\$303.00
14 Fourth Offense within Same 12-Month Period:	\$333.00
15 Fifth Offense within Same 12-Month Period:	\$366.00
16 Sixth and Subsequent Offense within Same 12-Month Period:	\$403.00

17 Any Fine Not Paid within Thirty (30) Days of Due Date (by US postmark) shall Be Calculated As
18 Follows:

19 The amount of the appropriate fine listed above added to a Late Penalty in the same amount as the fine
20 such that the total amount due is double the unpaid fine amount.

21 **SECTION 8:** Section 4-1-59.7 of the Codified Ordinances of the County of Orange is hereby adopted,
22 and shall read as follows:

23 **Sec. 4-1-59.7. Payment of Barking Dog or Animal Nuisance Civil Fines**

24 (a) After receiving a Barking Dog or Animal Nuisance violation citation, a violator may respond by
25 either of the following methods:

- 26 (1) The violator may choose to correct the Barking Dog or Animal Nuisance violation and pay the
27 Barking Dog or Animal Nuisance citation fine without contesting the fine in an administrative
28 hearing. In that event, payment of the citation fine must be received by the Director prior to the
date assigned for administrative hearing as noted in the citation. Payment shall be made by
enclosing the fine amount by check or money order in the self-addressed envelope attached to
the Civil Citation and mailing the envelope to the Director by U.S. first class mail, postage
prepaid. The Director may authorize payment to be made in accordance with any other method,
at any location within the County, or to any address.

1 (2) A violator may choose to appear at an administrative hearing on the assigned administrative
2 hearing date contained in the citation. In that event, the fine is due and payable to OC Animal
3 Care within thirty (30) days from the conclusion of the hearing if the Hearing Officer upholds
4 the Barking Dog citation.

5 (b) To avoid a late penalty, fines for Barking Dog or Animal Nuisance violations must be received by
6 the Director within thirty (30) days of the date they are due as specified in subparagraph (a)(1) or
7 (a)(2) above.

8 (c) Payment of a fine shall not excuse the violator from correcting the Barking Dog or Animal
9 Nuisance violation. The issuance of a Barking Dog or Animal Nuisance citation and/or payment of
10 a fine shall not bar the County from taking any other enforcement action regarding a Barking Dog
11 or Animal Nuisance violation that is not corrected, including issuing additional Barking Dog or
12 Animal Nuisance citations and/or criminal complaints.

13 (d) In the event that a fine imposed under the authority granted by this subarticle remains unpaid for
14 thirty (30) days after it is due and payable pursuant to subparagraph (a)(1) or (a)(2) above, an
15 amount equal to the fine shall be added as a late penalty and the late penalty and fine shall become
16 due immediately.

17 **SECTION 9:** Section 4-1-59.8 of the Codified Ordinances of the County of Orange is hereby adopted,
18 and shall read as follows:

19 **Sec. 4-1-59.8. Administrative Hearing**

20 (a) Any person who receives a Barking Dog or Animal Nuisance citation may contest it by appearing
21 at the assigned administrative hearing date, time and location noted on the Barking Dog or Animal
22 Nuisance citation. A violator may contest the Barking Dog or Animal Nuisance citation by denying
23 that a violation occurred, by denying that it was not corrected within the original 10-day correction
24 period, if applicable, or by denying that the violator is a Responsible Person for the violation.

25 (b) If the citation fine is not paid prior to the assigned date and time of the administrative hearing noted
26 on the Barking Dog or Animal Nuisance citation, the violator must personally attend the
27 administrative hearing on the date, time and place specified. A failure to personally appear at the
28 administrative hearing shall constitute an abandonment of any defense the violator may have to the
Barking Dog or Animal Nuisance citation.

SECTION 10: Section 4-1-59.9 of the Codified Ordinances of the County of Orange is hereby adopted,
and shall read as follows:

Sec. 4-1-59.9. Hearing Procedures

(a) Hearings shall be conducted by a Hearing Officer either: (i) on the date, time and place specified in
the Barking Dog citation, or (ii) on the date assigned when a continuance pursuant to section 4-1-
59.9(f) below has been granted. The violator and Complainant shall be notified of the assigned
hearing date, time and location by the Director or his/her designee.

- 1 (b) The Director or his/her designee will provide all pertinent documents and records in the possession
2 of OC Animal Care related to the Barking Dog citation or Animal Nuisance citation to the Hearing
3 Officer.
- 4 (c) The violator and Complainant shall be given the opportunity to testify and to present evidence
5 relevant to the Barking Dog or Animal Nuisance citation. Either party may have legal
6 representation at the hearing, but the testimony of what was observed by either party must come
7 from the party themselves.
- 8 (d) The citation itself and accompanying Complainant's affidavit signed under penalty of perjury
9 attesting to the Barking Dog or Animal Nuisance violation provided to the Hearing Officer shall be
10 accepted by the Hearing Officer as prima facie evidence of the violation and the facts stated in such
11 documents.
- 12 (e) The Enforcement Officer shall not be required to attend the hearing. However, any such
13 appearance and/or additional submission may be made at the discretion of other OC Animal Care
14 employees.
- 15 (f) The Director may continue a hearing once if a timely request for continuance is made showing good
16 cause by a violator, a Complainant, or a representative of the County. A request to the Director is
17 timely only if received at least seven (7) days prior to the scheduled hearing. Such a request shall be
18 made to, in writing and received by the Director via e-mail, facsimile or letter. If a continuance is
19 granted, the parties will be notified, and a new hearing date shall be scheduled that is within
20 fourteen (14) days of the date on which the continued hearing was first scheduled to take place.
- 21 (1) A Hearing Officer may also continue a hearing once upon his or her own motion if a request for
22 continuance, showing good cause, is made by a Complainant, Responsible Person, or a
23 representative of the County. Such a request shall be made in written form and received by the
24 Director via e-mail, facsimile or letter up to the date of the administrative hearing, to be included in
25 the administrative file, or be made in person at the administrative hearing. If such a request for
26 continuance is received, the Hearing Officer may approve or deny the request upon his or her own
27 motion. If such a request for a continuance is granted, the parties will be notified, and a new hearing
28 date shall be scheduled that is within thirty (30) days of the date on which the original hearing, or
first continuance of the hearing was scheduled to take place, whichever is later. If the request for
continuance is denied, the parties will be notified, and the hearing shall proceed as originally
scheduled. If the violator or Complainant is not present on an assigned hearing date and no
continuance of the hearing has been granted, the hearing shall be deemed abandoned or dismissed
in accordance with subsection (i) below.
- (g) The hearing shall be conducted informally and the legal rules of evidence need not be followed.
- (h) The Hearing Officer does not have the authority to issue a subpoena or subpoena duces tecum.
- (i) The failure of the violator to appear at the hearing, unless the hearing was continued per subsection
(f) above, shall constitute an abandonment of the administrative hearing, and a failure to exhaust
administrative remedies concerning the violation set forth in the Barking Dog or Animal Nuisance
citation. The violator's failure to appear shall be noted on the notice of decision completed by the
Hearing Officer and mailed to the violator and Complainant. The failure of the Complainant to
appear at the hearing, unless the hearing was continued per subsection (f) above, shall constitute an

1 abandonment of the complaint and shall be grounds for a dismissal of the Barking Dog citation.
2 The Complainant's failure to appear shall be noted on the notice of decision completed by the
3 Hearing Officer and mailed to the violator and Complainant.

4 **SECTION 11:** Section 4-1-59.10 of the Codified Ordinances of the County of Orange is hereby
5 adopted, and shall read as follows:

6 **Sec. 4-1-59.10. Administrative Hearing Decision**

- 7 (a) After considering all the evidence and testimony submitted at an administrative hearing, the
8 Hearing Officer shall issue a written decision to the violator and Complainant to uphold or to
9 dismiss the Barking Dog or Animal Nuisance citation based upon a conclusion of whether or not a
10 violation occurred for which the violator was a Responsible Person. The Hearing Officer's decision
11 is final. The Hearing Officer has no discretion or authority to reduce the amount of a fine.
- 12 (b) If the Hearing Officer's decision is to uphold the Barking Dog or Animal Nuisance citation, the
13 civil fine imposed for the violation shall be due within thirty (30) days of the hearing. If the
14 decision is to dismiss the Barking Dog or Animal Nuisance citation, the civil fine shall no longer be
15 due and payable.
- 16 (c) The Hearing Officer's continued employment, performance evaluation, compensation, and benefits
17 shall not directly or indirectly be linked to the amount of citations upheld or dismissed, or the
18 amount of fines upheld, by the Hearing Officer.

19 **SECTION 12:** Section 4-1-59.11 of the Codified Ordinances of the County of Orange is hereby
20 adopted, and shall read as follows:

21 **Sec. 4-1-59.11. Right to Judicial Review**

- 22 (a) A Responsible Person may seek judicial review of the administrative hearing decision by filing an
23 appeal with the Superior Court within twenty (20) calendar days after the Responsible Person
24 receives a copy of the notice of decision at the conclusion of the hearing in accordance with the
25 provisions of California Government Code Section 53069.4. The appeal filed with the court must
26 also contain a proof of service showing that a copy of the appeal was served upon "Clerk of the
27 Board of Supervisors, County of Orange, Robert E. Thomas Hall of Administration Building, 10
28 Civic Center Plaza, Room 465, Santa Ana, California 92702." The Responsible Person must pay the
appropriate Superior Court filing fee when the appeal is filed.
- (b) Pursuant to section 1010.6 of the Code of Civil Procedure, rule 2.253(b)(2) of the California Rules
of Court, Orange County Superior Local Rule 352, and Local Rule 601.01 all documents filed by
attorneys in limited civil must be filed electronically unless the Court rules otherwise. Self-
represented parties are exempt from the mandatory electronic filing requirement set for in the
Orange County Superior Court Local Rule 352, and Local Rule 601.01 and but strongly encouraged
to participate voluntarily in electronic filing and service.
- (c) No judicial appeal is permitted where a violator has failed to appear at an assigned administrative
hearing, or is deemed to have abandoned the contest of the Barking Dog citation by an unexcused

1 nonappearance at the hearing, or where a citation has been dismissed by a Hearing Officer because
2 a Complainant has failed to appear at an assigned administrative hearing.

3 **SECTION 13:** Section 4-1-59.12 of the Codified Ordinances of the County of Orange is hereby
4 adopted, and shall read as follows:

5 **Sec. 4-1-59.12. Collection of Unpaid Fines**

6 (a) The County at its discretion may pursue any and all legal and equitable remedies for the collection
7 of unpaid fines and late penalties. Pursuit of one remedy does not preclude the pursuit of any other
8 remedies until the total fines and late penalties owed by a violator under this subarticle have been
9 collected.

10 (b) Failure to timely remit payment of a citation fine and/or late penalty authorized under section 4-1-
11 59.7(d) above will result in criminal liability and a warrant may be issued for a violator's arrest.
12 Nonpayment of such fine and/or late penalty shall be a misdemeanor pursuant to section 1-1-34,
13 punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the
14 County jail for a period of not more than six (6) months or by both such fine and imprisonment.

15 **SECTION 14:** This Ordinance shall take effect and be in full force thirty (30) days from and after its
16 passage and, before the expiration of fifteen (15) days after the passage thereof, shall be published once
17 in an adjudicated newspaper in the County of Orange.
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