

# Aliso Viejo Nuisance Animals

## Title 6 - ANIMALS

### Sec. 6.04.030 Nuisance.

“No responsible person shall allow, upon any premises owned, occupied, or controlled by such a person, any animal to cause a nuisance by barking, howling, crying or making other sounds that unreasonably disturb other persons in the comfortable enjoyment of their life or property.

A dog shall not be deemed a nuisance if, at any time the dog is making noise, a person is trespassing or threatening to trespass upon the private property where the dog is situated, or when the dog is being teased or provoked.”

### NUISANCE COMPLAINT ADMINISTRATIVE PROCEDURES CITY OF ALISO VIEJO

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### **6.04.030 Nuisance**

(a) No responsible person shall allow, upon any premises owned, occupied, or controlled by such person, any animal to cause a nuisance by barking, howling, crying or making other sounds that unreasonably disturb other persons in the comfortable enjoyment of their life or property.

(b) A dog shall not be deemed a nuisance if, at any time the dog is making noise, a person is trespassing or threatening to trespass upon the private property where the dog is situated, or when the dog is being teased or provoked.

### **6.04.040 Nuisance Complaint Administrative Procedures**

Upon receiving a complaint alleging a nuisance as defined in AVMC 6.04.030, the following procedures shall apply:

(a) Upon receipt by the animal services department of a first complaint, animal services staff will send a letter informing the responsible person about the complaint.

(b) Upon receipt by the animal services department of a second complaint regarding an animal for which a first notice has been sent, provided at least ten (10) days but no more than thirty (30) days have elapsed from the date of the first letter sent by animal services staff pursuant to subsection (a) of this section, an animal services officer will be dispatched to issue a notice to comply and to advise the responsible person about possible solutions to rectify the nuisance.

(c) Upon receipt by the animal services department of a third complaint, provided at least ten (10) days but no more than thirty (30) days have elapsed from the date of the second complaint pursuant to subsection (b) of this section, animal services staff will ask the complaining party to complete and return to the department within ten (10) days of request a formal witness statement form signed under penalty of perjury attesting to the nuisance violation.

(d) Upon receipt of a formal witness statement form, if the director or his or her designee finds the animal owner to be in violation of AVMC 6.04.030, the department will issue an administrative citation pursuant to Chapter 1.06 AVMC in an amount set forth in the administrative citation schedule established by city council resolution.

#### **6.04.070 Administrative hearing**

(a) Notwithstanding the process set forth in Chapter 1.06 AVMC, any person who receives an administrative citation for violation of AVMC 6.04.030 may contest it by calling the animal services department within 10 days of the issuance date located on the citation and requesting an administrative hearing. The animal owner may contest the citation by denying that a violation occurred.

(b) If the citation fine is not paid prior to the assigned date and time of the administrative hearing, the animal owner must personally attend the administrative hearing on the date, time and place scheduled. Failure to personally appear at the administrative hearing shall constitute an abandonment of any defense the animal owner may have to the citation.

(c) Hearings shall be conducted by the animal services department on the date assigned by the department in accordance with the procedures set forth in Chapter 1.06 AVMC. The animal owner and complainant will be notified of the assigned hearing date, time and location by the department staff.

(d) The animal owner and complainant shall be given the opportunity to present testimony and evidence relevant to the citation. If the animal owner is a juvenile, under 18 years of age, they must be accompanied by an adult or legal guardian to the administrative hearing or the administrative hearing will be deemed

abandoned by the animal owner. Such abandonment shall also constitute a failure to exhaust administrative remedies concerning the violation set forth in the citation.

(e) The citation itself and accompanying complainant's formal witness statement shall be accepted by the department as prima facie evidence of the violation and the facts stated in such documents.

(f) Failure of the animal owner to appear at the hearing, unless the hearing was continued by the Animal Services Department prior to the hearing date, shall constitute abandonment and will require the citation fine to be paid. Failure of the complainant to appear at the hearing, unless the hearing was continued by the Animal Services Department, shall constitute abandonment of the complaint and shall be grounds for dismissal of the nuisance violation and citation. The complainant's failure to appear shall be noted and mailed to the animal owner and complainant.

(g) Fines for violating the provisions of AVMC 6.04.030 shall be established by resolution of the city council.

**Civil Fine Amounts for Nuisance Violations:**

Fine for First Nuisance Citation (Per Citation):	\$300.00
Fine for Second Nuisance Citation issued within the same 12-month period:	\$350.00
Fine for Third Nuisance Citation issued within the same 12-month period:	\$400.00
Fine for Fourth Nuisance Citation issued within the same 12-month period:	\$450.00
Fine for Fifth Nuisance Citation issued within the same 12-month period:	\$500.00
Fine for each additional Nuisance Citation issued within the same 12-month period:	\$550.00

(h) A late penalty in the same amount of the underlying fine amount due pursuant to subsection (g) shall accrue and be charged for any fine not paid within fifteen (15) days of due date, such that the total amount due is double the unpaid fine amount.