

Sec. 2.01.010 Noise Violations

(a) A person commits an offense if he keeps, harbors, possesses or otherwise maintains an animal or animals which barks, whines, howls, crows, cackles or makes any noise excessively and continuously and such noise is such as to disturb a reasonable person of ordinary sensibilities.

It is a defense to prosecution under this section that the owner of the animal eliminates the noise violation within 24 hours of the issuance of a citation. Each day that an animal **nuisance** continues after a final order for correction or abatement shall constitute a separate offense.

Section 2.01.011 Animal Nuisances.

(a) The following shall constitute nuisances subject to the issuance of corrective orders by the animal control authority:

(1) An animal which is determined to be running at large three or more times within a 12 consecutive month period;

(2) An animal which, without provocation, attacks other animals of any kind regardless of whether injury is inflicted on the other animal;

(3) An animal which damages, soils or defiles public or private property other than property belonging to or under the control of the animal's owner;

(4) An animal which produces offensive odors or unsanitary conditions sufficient to annoy a reasonable person of ordinary sensibilities living in the vicinity; or

(5) An animal which chases pedestrians, passersby or passing vehicles, including bicycles.

(b) The animal control officer may determine that a public nuisance exists through an investigation of any reported or perceived public nuisance, and may interview witnesses and/or conduct such hearings as they may determine are necessary, formally or informally. They shall make a determination based on the necessity to preserve the public health, safety, and welfare of the community.

(c) Upon such determination, the animal control officer shall notify the animal owner or the person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to appeal. The notice shall set forth the non-compliance and order the owner to abate the public nuisance described in such notice within seven (7) days of receipt of notice. Notice of a public nuisance shall include, but not be limited to, written notice of the existence of a public nuisance delivered by personal service, certified mail, return receipt requested, or left at the entrance to the premises where the animal(s) is harbored. A notice that is mailed is deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

(c) If such owner fails or refuses to comply with the demand for compliance in the notice within seven (7) days of receipt of such notice or publication, the animal control officer may issue a citation for creating a public nuisance and/or order the abatement of the public nuisance by one of the following means:

- (1) Exclusion from the city limits an animal(s) determined to be a continuing public nuisance.
- (2) Owner surrender to Joshua Animal Services and payment of applicable fees for surrender.
- (d) An owner or person in control of the animal(s), not later than seven (7) days after receipt of a citation, notifying the person that an animal is a continuing public nuisance, may appeal the determination of the animal control officer to the permit and appeals board. Upon receiving an appeal, the permit and appeals board shall hold a hearing at a time and place of their designation. Based upon the recorded evidence of such hearing, the permit and appeals board shall make a final finding.
- (e) The owner or person in control of the animal(s) determined to be a continuing public nuisance shall remove such animal(s) from the city within forty-eight (48) hours of an unsuccessful appeal. The failure to remove such animal(s) shall be an offense and each day thereafter that such person fails to remove such animal(s) shall constitute a separate offense. If the owner or person in control of such animal(s) fails to remove such animal(s) as provided for by the order of the animal control officer or the court, such animal(s) may be impounded and put up for adoption in accordance with subsection (c) of this section or humanely destroyed.
- (f) The owner or person in control of such animal(s) must report the disposition and exact address or relocation of such animal(s) to the animal control officer in writing within ten (10) days after the expiration date for removal of such animal(s) from the city. Each day thereafter that such information is not provided shall constitute a separate offense.
- (g) The animal control officer shall be authorized, after due process, to obtain a search and seizure warrant for the purposes of enforcing this section.