

**Sec. 8-46. Barking dog nuisance.**

- (a) It shall be unlawful for any owner, possessor or keeper of any dog to permit such dog to disturb any person or neighborhood by loud and persistent or habitual barking, howling or yelping. No summons and complaint shall be issued for any violation of this section unless there are at least two (2) or more complaining witnesses from separate households who have signed such complaint. In appropriate cases, as determined by the manager of the department of environmental health or their designee, any animal control officer or police officer who has personally investigated the complaint of a single complainant, and observed problem behavior of the dog with regard to its loud and persistent or habitual barking, howling or yelping, may be the second complaining witness.
- (b) In any prosecution for a violation of this section, the fact that any loud dog barking which disturbed any person or neighborhood occurred either:
  - (1) Between the hours of 10:30 p.m. and 7:30 a.m.; or
  - (2) When none of the residents who reside at the place where the barking dog is being kept are at home;

shall create a rebuttable presumption that the dog barking was unlawful.

- (c) Any dog which has been allowed or permitted to persistently and chronically violate this section, as demonstrated by one (1) or more convictions for violating this section, and the receipt of subsequent complaints from more than one (1) household, is declared to be a public nuisance and may be impounded upon compliance with the procedures outlined in subsections (d) through (h).
- (d) Whenever any chronic barking dog nuisance as defined in subsection (c) of this section is found on any premises within the jurisdiction of the city, a written notice shall be given to the owner, possessor or keeper of the dog, or to the owner, occupant, person in possession, person in charge or person in control of the premises where the dog is located, or a written notice shall be posted at such premises when none of the above people can be found at the premises. Such notice shall be signed by the director of the municipal animal shelter or his or her authorized representative and shall give the person or persons to whom it is directed no less than seventy-two (72) hours (three (3) days) nor more than one hundred twenty (120) hours (five (5) days) to abate the chronic barking dog nuisance. Such notice shall also state that the dog may be impounded if the barking dog nuisance is not abated.
- (e) If, after the time given to comply with the notice has passed, the barking dog nuisance has not been abated, the director of the municipal animal shelter may: summarily abate the barking dog nuisance by impounding the barking dog; assess the costs of such abatement against the property or owner thereof, to be collected by suit or otherwise; and issue a citation for the violation of this section. The impoundment shall continue until the resolution of the citation issued in conjunction with the impoundment or, until the manager or a hearing officer has conducted the administrative hearing described in this section and determined that the dog does not constitute a barking dog nuisance and should be released.

- (f) At the time any dog is impounded as a barking dog nuisance, the director or their designee shall serve a notice on the owner, possessor or keeper of the dog, or to the owner, occupant, person in possession, person in charge or person in control of the premises where the dog is located; or a written notice shall be posted at such premises when none of the above people can be found at the premises. Such notice shall be signed by the director of the municipal animal shelter or his or her authorized representative. Such notice shall state that the dog has been impounded as a chronic barking dog nuisance under this section; that the owners, possessors, and keepers of the dog are entitled to a hearing to contest the impoundment; that to obtain such a hearing, the owner, possessor, or keeper must submit a written petition for release of the dog, containing the petitioner's name and address, including mailing address, and the reason the dog should not be classified as a chronic barking dog nuisance; and that this petition must be filed with the manager within seven (7) days of the impoundment. If the last day of this seven-day period falls on a Saturday, Sunday, or holiday, the time for filing the petition shall be extended to the next regular business day.
- (g) When a dog has been impounded pursuant to this section, and the owner, possessor or keeper of such dog disputes the classification of such dog as a chronic barking dog nuisance, the owner, possessor or keeper of such dog may file a written petition for a hearing concerning such classification with the manager no later than seven (7) days after impoundment. If the last day of this seven-day period falls on a Saturday, Sunday, or holiday, the time for filing the petition shall be extended to the next regular business day. Such petition shall include the petitioner's name and address, including mailing address and the reason the petitioner believes the dog should not be classified as a chronic barking dog nuisance. The petition shall be set for a hearing to be held on a date no more than twenty (20) days after the date the petition is filed. The manager, or the manager's designee, shall issue a notice of the hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where the owners, possessors, or keepers of the dog fail to file a written petition with the manager within seven (7) days of the impoundment, excluding Saturdays, Sundays, and holidays, they shall be deemed to have waived their right to a hearing to contest the classification of the dog as a chronic barking dog nuisance.
- (h) The hearing on the chronic barking dog classification shall be held before the manager or a hearing officer designated by the manager. The sole issue at the hearing shall be whether the dog constitutes a chronic barking dog nuisance as defined in subsection (c) of this section. The hearing shall not address the sufficiency of abatement or any other issues.
- (i) It shall be unlawful to fail to comply with a notice to abate a nuisance issued as provided in subsection (d).

(Code 1950, § 754.1; Ord. No. 270-92, § 1, 5-11-92; Ord. No. 800-97, § 1, 11-10-97)