



**Town of Yucca Valley's Animal Control Ordinance No. 138**  
**Sections 10.02.010 (t) and 10.02.110 - Public Nuisance Animals**



**10.02.010 (t) Public Nuisance Animal:** Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- (1) Is repeatedly found at large or owner has received three or more Court Citations and/or Notices of Violation, on separate occurrences, for running at large, or;
- (2) Is impounded three or more times;
- (3) Damages the property of anyone other than its owner;
- (4) Impedes the safety of pedestrians, passersby, bicyclists or motorists;
- (5) Makes excessive disturbing noise including, but not limited to continued and repeated howling, barking, whining, and other utterances continued over so long a period of time as to disturb the peace and quiet of nearby property or which would cause annoyance or discomfort to a reasonable person of normal sensitivity in the area. This definition does not apply to properly permitted commercial animal establishments.
- (6) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or attacks other domestic animals;
- (7) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored and/or causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

**10.02.110 Public Nuisance Animals**

- (a) It shall be unlawful for any owner, custodian or caregiver to permit or allow his or her animal(s) to be a public nuisance, as defined in this chapter.
- (b) It shall be unlawful for any property owner to permit or allow a public nuisance animal as defined in this chapter to be kept, owned or harbored on its property
- (c) Such a public nuisance may be abated in accordance with the procedures set forth in this chapter. These procedures are in addition to any other remedies, which may be available under the law.

**(d) Enforcement of Provisions**

- (1) Whenever an Animal Control Officer determines that there exists probable cause to believe that a animal may be or is a public nuisance, as defined in this chapter, and/or has demonstrated behavior to a lesser degree as defined under potentially dangerous dogs, of this chapter, the officer shall conduct an investigation and schedule an administrative hearing to determine whether or not the dog in question shall be declared a public nuisance.

**(e) Written Petitions, Investigation.**

- (1) In the event an administrative hearing is requested to be scheduled to determine if the animal in question shall be declared a public nuisance, probable cause shall be determined by the following:
  - (A) A direct observation by an Animal Control Officer, Code Compliance Officer, Peace Officer or;

- (B) A written petition in which it is asserted by two or more persons having separate residences in a neighborhood that an animal is a public nuisance as defined in this chapter, or;
- (C) A written petition in which it is asserted by one or more residents in a neighborhood that an animal is a public nuisance as defined in this chapter and:
  - (1) Such resident(s) can demonstrate to the satisfaction of the animal control officer that the resident(s) has made a good faith effort to obtain the signatures of other residents in the neighborhood or can demonstrate that it is not possible to obtain such signatures, as in the case where there are less than two (2) occupied residences in the neighborhood, and;
  - (2) Such resident(s) has provided to the satisfaction of the animal control officer adequate and competent evidence in support of the claim that the subject animal is a public nuisance within the meaning of this chapter.
- (D) Petitions shall be signed by and bear the name, address and telephone number of each complainant, shall state the place or places where the nuisance exists, shall describe the animal(s) and the conduct which constitutes the nuisance, and shall give the name and address of the animal's owners or keepers, if known to complainants. Petitions shall be public records and open to public inspection.

**(f) Notice to Owner to Abate Nuisance; Failure to Abate; Referral**

- (1) If the Animal Control Officer determines that a petition filed pursuant this section appears to be valid, he/she shall serve a Notice to Abate Nuisance upon the owner or keeper of the subject animal and the property owner in accordance with 10.02.110 (e)(3) which shall inform the owner and the property owner of the following:
  - (A) That a petition has been received;
  - (B) The nature of the complaints stated in the petition; and
  - (C) The manner by which the nuisance must be abated within a reasonable time.
  - (D) A copy of the provisions of this chapter shall also be provided to the owner or keeper and property owner with the Notice to Abate Nuisance.
- (2) If the owner or keeper or property owner fails to abate the public nuisance within the specified time, the Animal Control Officer shall schedule an Administrative Hearing.
- (3) All notices to Property Owner required by this Chapter shall be served by mailing to the Property Owner at the address shown on the last available assessment roll or by personal service on the Property Owner and shall be accompanied by a copy of this Chapter.

**(g) Notification of Administrative Hearing**

- (1) Animal Control Services shall notify the owner or the keeper of the animal(s) and the property owner of the hearing at which time the owner or keeper of the dog shall be given an opportunity to present evidence as to why the dog should not be declared a public nuisance. Notice of the hearing and any additional written evidence must be served upon the owner or keeper of the dog personally or by first class mail, return receipt requested. Notice of the hearing and any additional written evidence must be served on the property owner in accordance with 10.02.110(f)(3). The hearing shall be open to the public.

**(h) Temporary Impoundment of Animal**

- (1) The Animal Control Officer shall have the power to temporarily impound the subject animal pending the outcome of an administrative hearing if:

- (A) After making a good faith effort, he/she is unable to contact the animal's owner or keeper and determines, at the time of inspection, that the offending noise, condition or behavior of the animal cannot be immediately abated, and the peace and comfort of the neighborhood restored;
- (B) Determines, at the time of inspection, that the offending noise, condition or behavior of the animal cannot be immediately abated and the peace and comfort of the neighborhood restored; or
- (C) Determines that the public nuisance has not been abated within the time specified in the Notice to Abate Nuisance.

- (2) The owner of the animal shall be responsible for all costs of impounding the animal(s), including but not limited to daily impoundment fees and any costs incurred in providing care and maintenance of the animal.
- (3) In lieu of impounding an animal, the animal control officer may permit the animal to be confined by the owner, at the owner's expense, in an approved veterinary facility, kennel or other facility approved by the animal control supervisor.

**(i) Administrative Hearing**

- (1) An impartial Hearing Officer who shall be appointed by the Town Manager or designee shall conduct the administrative hearing. If the owner or keeper of the animal and/or property owner fails to appear at the hearing the hearing shall nevertheless proceed. At least one of the complainants and/or the investigating Animal Control Officer or representative in the matter must appear and testify at the hearing.

**(j) Grounds for Determination of Nuisance**

- (1) In making a determination that an animal is or is not a public nuisance, the hearing officer shall consider the following evidence:
  - (A) All petitions filed pursuant to the requirements of 10.02.110 (d);
  - (B) The testimony of persons residing or working in the area of the place where the animal is kept;
  - (C) The testimony of any investigating animal control, code compliance or peace officer having contact with the subject animal or its owner;
  - (D) Video or tape recordings of the animal or of the place where the animal is kept;
  - (E) Any previous complaints, abatement orders, preventive measures order, citations or convictions regarding the maintenance of a public nuisance by the owner by reason of an animal's offending noise, condition or behavior;
  - (F) The nature and extent of the animal's offending noise, condition or behavior;
  - (G) The manner in which the animal had been maintained by the owner;
  - (H) The presence or absence of any provocation for the offending noise, condition or behavior;
  - (I) Whether the offending noise, condition or behavior can be eliminated by effectively training or retraining the animal; and
  - (J) Any other relevant evidence regarding the ability of the owner to preserve the comfort, peace or quiet of the neighborhood if the animal is permitted to remain in the Town.

- (2) The Hearing Officer shall also consider all relevant evidence including any mitigating evidence presented. However, hearings need not be conducted according to technical rules relating to evidence or witnesses. Oral evidence shall be taken on oath or affirmation.

**(k) Public Nuisance Declared; Notice of Determination**

- (1) Upon completion of the hearing, the Hearing Officer's Notice of Determination shall be mailed or served within ten days of the hearing, which notice of determination shall be final.
- (2) If animal is found to be a public nuisance, the owner or keeper of the animal and property owner shall be personally liable and shall pay to the seizing agency all administrative costs as set by resolution of the Town Council, and impounding costs, boarding costs and/or other related costs incurred.
- (3) No animal seized in accordance with this chapter shall be returned to the owner until, in determination of the animal control officer, all requirements set by the hearing officer are met for the keeping and maintenance of the animals.
- (4) The owner or keeper of a public nuisance animal shall, within five days of such determination, make available said animal to Animal Control Services and allow photographs of the animal to be taken for purposes of identification.
- (5) The following terms and conditions, while not limited to this section, may be applied to the keeping and maintaining of any animal found to be a public nuisance, in accordance to this chapter.
  - (A) Confinement of Animal(s) - The Hearing Officer and/or Animal Control Officer can require fence installation and repair and other confinement measures when these are deemed necessary.
  - (B) Liability Insurance - The Hearing Officer and/or Animal Control Officer has the authority to require an animal's owner or keeper to obtain liability insurance for the benefit of any person who may be injured by the animal.
  - (C) Town of Yucca Valley Animal Control Services shall include a designation of public nuisance animals in the registration records of such animal.
  - (D) The owner or keeper shall pay an annual "Public Nuisance Animal Registration Fee", in addition to any regular license fee, if applicable, as determined by resolution of the Town Council.
  - (E) While on the owner or keeper's property the animal shall be provided with an adequate exercise area and be confined in a securely fenced and locked yard from which the animal cannot escape.
  - (F) If the dog is restricted by a leash, rope or chain on the property, the leash rope or chain shall be affixed in such a manner that it will prevent the dog from becoming entangled or injured and permit the dog's access to adequate shelter, food and water.
  - (G) The Hearing Officer can terminate ownership rights in severe cases. Said determination is final.
- (6) If the animal dies, or is sold, transferred or permanently removed from the Town of Yucca Valley, the owner or keeper shall notify the Town's Animal Control Services in writing of the changed circumstances and new location if applicable of the dog within two working days of the change.
- (7) The animal shall be removed from the list of public nuisance animals if there are no additional instances of behavior as defined and identified in this chapter within twelve months after designation. The animal may be removed earlier from the list of public nuisance animals if Animal Control Services determines that there have been sufficient changed circumstances.
- (8) Animal Control Services is authorized to make inspections deemed reasonably necessary to insure compliance with these provisions.

**(l) Disposition of Public Nuisance/Removal of Animal(s)**

- (1) The hearing officer may order the owner or keeper of any animal declared to be a public nuisance to remove the animal from the Town by a date certain if the owner:
  - (A) Fails or refuses to abate the public nuisance within the time period specified by the hearing officer;
  - (B) Fails or refuses to reimburse the costs of abating the public nuisance within specified time; or
  - (C) Permits, suffers, or allows the public nuisance to occur again.
- (2) If the owner or keeper fails to remove the animal from the Town by such date, Animal Control Services may impound the animal and not permit the reclaiming or redemption of the animal by the owner unless adequate arrangements acceptable to the Animal Control Supervisor have been made by the owner or keeper to ensure abatement of the public nuisance. Such arrangements shall be agreed to in writing between the owner and the Animal Control Supervisor prior to and as a condition of release of the animal to its owner. If such agreement is not made and executed within ten (10) days from the date of impoundment, then the animal may be considered abandoned and may be handled in the same manner as any other unclaimed stray animal.
- (3) If the written agreement referred to previously, in paragraph (2) of this section, is made and is subsequently breached by the owner, the Animal Control Supervisor may immediately order that the animal(s) be impounded and not permit the reclaiming or redemption of the animal(s) by the owner unless the owner can make adequate, written assurances acceptable to the Animal Control Supervisor that the owner shall commit no further violation of the agreement. If such further assurances are not made and executed within ten (10) days from the date of impoundment, then the animal may be considered abandoned and may be handled in the same manner as any other unclaimed stray animal.

**(m) Prohibiting Ownership of Animals**

- (1) Any person failing to comply with the hearing officer's order to abate a public nuisance shall be prohibited from keeping or harboring within the Town an animal of the type, species, group or family to which the order applies (including the animal initially causing the nuisance) for a period of one (1) year from the date of such noncompliance; provided however, that any person prohibited from keeping or harboring an animal pursuant to this section shall be entitled to an appeal to the Hearing Officer. The scope of any such appeal hearing shall be limited to a determination regarding whether a failure to comply with a hearing officer's order has occurred.

**(n) Waiver of Rights to Avoid Hearing/Agreement to Comply**

- (1) Any owner or keeper of a dog may prepare a written statement and waive his right to a hearing and agree to comply with the requirement of this ordinance regarding the keeping of a public nuisance animal.

**(o) Additional Legal Remedies**

- (1) In addition to the administrative proceedings under this section, the Town may alternatively to or in conjunction with the proceedings set forth in this section commence a criminal action with respect to the nuisance in addition to, alternatively to, or in conjunction with the proceedings set forth in this section or pursue any and all other remedies legally available.