

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

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

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4 (a) **Animal Care Services** means the department within Orange County Health Care Agency
5 authorized to perform the functions described in sections 4-1-1 through 4-1-180 of this Division and any
6 other ordinance or law that delegates such authority to the Animal Care Services department or its
7 director.

8 (b) **County** means the County of Orange.

9 (c) **Civil citation** means a notice issued pursuant to this subarticle that there has been a violation of this
10 subarticle.

11 (d) **Day** or **days** as used in this Article shall mean calendar day or calendar days, respectively, unless
12 otherwise expressly provided. The time in which any act provided by law is to be done is computed by
13 excluding the first day and including the last, unless the last day is a holiday, and then it is also
14 excluded.

15 (e) **Director** means the Health Care Agency Animal Care Services Director, or his or her designee.

16 (f) **Enforcement Officer** means any Animal Care Services employee or agent designated in writing by
17 the Director.

18 (g) **Hearing Officer** means a person appointed by the County Executive Officer or designee to serve
19 as a Hearing Officer for administrative hearings.

20 (h) **Issued** means giving a civil citation to a violator. Issuance occurs on the date when a barking dog
21 civil citation is personally served on the violator, or the date it is mailed to the property where the
22 barking dog is located or where the barking dog violation occurred, or the date the citation is posted in a
23 conspicuous place either on the property where the barking dog is located or where the barking dog
24 violation occurred. When service is made by posting, the barking dog citation shall also be mailed
25 within 24 hours of posting to any address known for the violator.

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

28 (j) **Owner** means any person who possesses, has title to or an interest in, harbors or has control,
custody or possession of a dog, and the verb forms of “to own” shall include all those shades of
meaning.

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

(1) A person who allows a barking dog violation to exist, whether through willful action, failure
to act, or failure to exercise proper control over a barking dog.

1 (2) A person whose agent, employee, or independent contractor allows a barking dog violation
2 to exist, whether through willful action, failure to act, or failure to exercise proper control over a barking
3 dog.

4 (3) A person who is the owner of, and a person who is a lessee or sublessee with the current
5 right of possession of, real property in or upon which a barking dog violation occurs.

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

8 (5) For the purposes of this subarticle, there may be more than one Responsible Person for a
9 barking dog violation, and a minor at least 14 years of age may be a Responsible Person subject to the
10 provisions of this subarticle.

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

13 **Sec. 4-1-59.3. Barking dog citation -- general.**

14 (a) Any Enforcement Officer has the authority to issue a civil citation to any Responsible Person for a
15 barking dog violation that the Enforcement Officer did not see or hear occur based on a complaint,
16 signed under penalty of perjury, lodged by a member of the community who has been disturbed by the
17 barking dog. A Responsible Person to whom a civil citation is issued shall be liable for and shall pay to
18 the County the fine or fines described in the barking dog citation when due. Where the Responsible
19 Person is a minor under the age of eighteen (18) years, the minor's parents or legal guardian shall be
20 liable for and held responsible for payment of their minor child's citation fines and/or late penalties. In
21 any case, the Responsible Person (by his/her parents when the Responsible Person is under the age of
22 eighteen) shall have the right to appeal the issuance of the citation pursuant to the provisions of this
23 subarticle.

24 (b) Prior to issuing a civil citation for a barking dog, the Responsible Person shall be given a 10-day
25 period within which to correct the problem.

26 (c) Each day a barking dog violation exists beyond the initial 10-day period allowed for correction
27 shall be a separate violation and be subject to a separate citation and fine. A barking dog civil citation
28 may include a violation for one (1) or more days on which a violation exists, and for violation of one (1)
or more Code sections.

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

Sec. 4-1-59.4. Barking dog citation contents.

Each barking dog citation shall contain the following information:

- 1 (a) Date on which a complaint or personal inspection established the barking dog violation(s).
- 2 (b) Name of the Responsible Person for the barking dog violation(s) (if known).
- 3 (c) Address where the barking dog violation(s) occurred.
- 4 (d) The Code section(s) violated.
- 5 (e) Whether the violation(s) were established by inspection or by complainant.
- 6 (f) Amount of the fine for the violation(s) and procedure to pay the fine to avoid a late payment
- 7 penalty.
- 8 (g) Designation of prior civil citations issued for the same Code violation(s), if known by the
- 9 Enforcement Officer.
- 10 (h) Notification of an assigned administrative hearing date, time and location where the civil
- 11 fine may be contested.
- 12 (i) Description of the procedure for requesting a continuance of the assigned administrative
- 13 hearing.
- 14 (j) A notice that a barking dog violation is a nuisance and that collection of unpaid fines and/or
- 15 penalties can result in additional fines, penalties and/or imprisonment in the County jail.
- 16 (k) Signature of the Enforcement Officer who issued the barking dog citation and/or civil fine.
- 17 (l) Date upon which the barking dog citation and/or civil fine was issued.
- 18 (m) Proof of service to be completed by the Enforcement Officer indicating whether citation
- 19 was issued by personal service, by mail, or by posting in a conspicuous place on the property
- 20 where the barking dog violation occurred.
- 21 (n) A self-addressed envelope in which the violator can mail the civil fine to the County if the
- 22 citation is not contested.
- 23 (o) Any other information deemed necessary by the Enforcement Officer for enforcement or
- 24 collection purposes.

25 **SECTION 6:** Section 4-1-59.5 of the Codified Ordinances of the County of Orange is hereby

26 adopted, and shall read as follows:

27 **Sec. 4-1-59.5. Service of barking dog citation.**

28 A barking dog citation may be served as follows:

1 (a) An Enforcement Officer may personally serve the barking dog citation on the Responsible Person.
2 The Responsible Person shall be requested to sign a copy of the citation showing his or her receipt of the
3 citation and notice of the Responsible Person's right to an administrative hearing. Signing the citation
4 shall not constitute an admission of guilt.

5 (b) An Enforcement Officer may mail the civil citation by certified mail, return receipt requested, if
6 the property owner and/or occupier's name is known but the violator is not present when personal
7 service is attempted. The citation shall be mailed to the address where the barking dog violation
8 occurred.

9 (c) An Enforcement Officer may post a copy of the barking dog citation in a conspicuous place on the
10 property where the barking dog violation occurred if the property owner and/or occupier's name is
11 unknown. In this event, the citation shall also be mailed addressed to the owner of the property where
12 the barking dog violation occurred as reflected on the County's property tax rolls. A copy of the citation
13 shall also be mailed within 24 hours of posting the citation addressed to "Resident" at the address where
14 the barking dog violation occurred.

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

17 **Sec. 4-1-59.6. Amount of barking dog civil fines.**

18 Fines for violating the provisions of this subarticle shall be as follows:

19 Fine for First Barking Dog Violation Citation Issued (Per Citation):	\$250.00
20 Fine for Second Barking Dog Citation within Same 12-Month Period (Per Citation):	\$275.00
21 Fine for Third Barking Dog Citation within Same 12-Month Period (Per Citation):	\$303.00
22 Fine for Fourth Barking Dog Citation within Same 12-Month Period (Per Citation):	\$333.00
23 Fine for Fifth Barking Dog Citation within Same 12-Month Period (Per Citation):	\$366.00
24 Fine for Sixth and Subsequent Barking Dog Citations Issued within Same 12-Month 25 Period: (Per Citation)	\$403.00

26 Any Fine Not Paid within Fifteen (15) Days of Due Date Shall Be Calculated As Follows:
27 The Amount of the Appropriate Fine Listed Above Added to a Late Penalty in the Same Amount as the
28 Fine Such that the Total Amount Due is Double the Unpaid Fine Amount.

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

31 **Sec. 4-1-59.7. Payment of barking dog civil fines.**

32 (a) After receiving a barking dog violation citation, a violator may respond by either of the following
33 methods:

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2 (1) The violator may choose to correct the barking dog violation and pay the barking dog
3 citation fine without contesting the fine in an administrative hearing. In that event, payment of
4 the citation fine must be received by the Director prior to the date assigned for administrative
5 hearing as noted in the citation. Payment shall be made by enclosing the fine amount by check
6 or money order in the self-addressed envelope attached to the civil citation and mailing the
7 envelope to the Director by U.S. first class mail, postage prepaid. The Director may authorize
8 payment to be made in accordance with any other method, at any location within the County, or
9 to any address.

10 (2) A violator may choose to appear at an administrative hearing on the assigned administrative
11 hearing date contained in the citation. In that event, the fine is due and payable to the Hearing
12 Officer at the conclusion of the hearing if the Hearing Officer upholds the barking dog citation.
13 The Hearing Officer may allow the violator an additional period of time within which to pay the
14 fine if, in the Hearing Officer's sole discretion, such additional time for payment is necessary.

15 (b) To avoid a late penalty, fines for barking dog violations must be received by the Director within
16 fifteen (15) days of the date they are due as specified in subparagraph (a)(1) or (a)(2) above.

17 (c) Payment of a fine shall not excuse the violator from correcting the barking dog violation. The
18 issuance of a barking dog citation and/or payment of a fine shall not bar the County from taking any
19 other enforcement action regarding a barking dog violation that is not corrected, including issuing
20 additional barking dog citations and/or criminal complaints.

21 (d) In the event that a fine imposed under the authority granted by this subarticle remains unpaid for
22 fifteen (15) days after it is due and payable pursuant to subparagraph (a)(1) or (a)(2) above, an amount
23 equal to the fine shall be added as a late penalty and the late penalty and fine shall become due
24 immediately. If a Hearing Officer upholds the issuance of a citation in an administrative hearing, the
25 late penalty will be assessed if the fine is not paid as required at the conclusion of the hearing, or other
26 time for payment determined by the Hearing Officer.

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

Sec. 4-1-59.8. Administrative hearing.

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

(b) If the citation fine is not paid prior to the assigned date and time of the administrative hearing
noted on the barking dog citation, the violator must personally attend the administrative hearing on the
date, time and place specified. A failure to personally appear at the administrative hearing shall
constitute an abandonment of any defense the violator may have to the barking dog citation.

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

3 **Sec. 4-1-59.9. Hearing procedures.**

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

8 (b) The Director or his/her designee will provide all pertinent documents and records in the possession
9 of Animal Care Services related to the barking dog citation are delivered to the Hearing Officer.

10 (c) The violator and complainant shall be given the opportunity to testify and to present evidence
11 relevant to the barking dog citation. A parent or legal guardian of a violator who is a juvenile, under
12 eighteen (18) years of age, must accompany the juvenile to the hearing or the administrative hearing will
13 be deemed abandoned by the violator. Such abandonment shall also constitute a failure to exhaust
14 administrative remedies concerning the violation set forth in the barking dog citation.

15 (d) The citation itself and accompanying complainant's affidavit signed under penalty of perjury
16 attesting to the barking dog violation provided to the Hearing Officer shall be accepted by the Hearing
17 Officer as prima facie evidence of the violation and the facts stated in such documents.

18 (e) Neither the Enforcement Officer nor any other representative of the County shall be required to
19 attend the hearing. However, any such appearance and/or additional submission may be made at the
20 discretion of the Enforcement Officer or any other Animal Care Services employee.

21 (f) The Director may continue a hearing once if a request for continuance is made showing good cause
22 by a violator, a complainant, or a representative of the County. A Hearing Officer may also continue a
23 hearing upon his or her own motion. All continuance requests shall either: (i) be made in person at the
24 hearing, or (ii) be made by a written request received by the Director via e-mail, facsimile or letter at
25 least one week (7 days) prior to the hearing date. If a continuance is granted, the parties will be notified,
26 and a new hearing date shall be scheduled that is within fourteen (14) days of the date on which the
27 continued hearing was first scheduled to take place. If the request for continuance is denied, the parties
28 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 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 abandonment of the complaint and shall be

1 grounds for a dismissal of the barking dog citation. The complainant's failure to appear shall be noted
2 on the notice of decision completed by the Hearing Officer and mailed to the violator and complainant.

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

5 **Sec. 4-1-59.10. Administrative hearing decision.**

6 (a) After considering all the evidence and testimony submitted at an administrative hearing, the
7 Hearing Officer shall issue a written decision to the violator and complainant to uphold or to dismiss the
8 barking dog citation based upon a conclusion of whether or not a violation occurred for which the
9 violator was a Responsible Person. The Hearing Officer's decision is final. The Hearing Officer has no
10 discretion or authority to reduce the amount of a fine.

11 (b) If the Hearing Officer's decision is to uphold the barking dog citation, the civil fine imposed for
12 the violation shall be due at the conclusion of the administrative hearing, or at some other time as
13 directed by the Hearing Officer. If the decision is to dismiss the barking dog citation, the civil fine shall
14 no longer be due and payable.

15 (c) The Hearing Officer's continued employment, performance evaluation, compensation, and benefits
16 shall not directly or indirectly be linked to the amount of citations upheld or dismissed, or the amount of
17 fines upheld, by the Hearing Officer.

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

20 **Sec. 4-1-59.11. Right to judicial review.**

21 (a) A Responsible Person may seek judicial review of the administrative hearing decision by filing an
22 appeal with the Superior Court within twenty (20) calendar days after the Responsible Person receives a
23 copy of the notice of decision at the conclusion of the hearing in accordance with the provisions of
24 California Government Code Section 53069.4. The appeal filed with the court must also contain a proof
25 of service showing that a copy of the appeal was served upon "Clerk of the Board of Supervisors,
26 County of Orange, Robert E. Thomas Hall of Administration Building, 10 Civic Center Plaza, Room
27 465, Santa Ana, California 92702." The Responsible Person must pay the appropriate Superior Court
28 filing fee when the appeal is filed.

(b) 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
nonappearance at the hearing, or where a citation has been dismissed by a Hearing Officer because a
complainant has failed to appear at an assigned administrative hearing.

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

Sec. 4-1-59.12. Collection of unpaid fines.

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

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

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