

ORDINANCE NO. 08-6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING TITLE 3 OF THE COSTA MESA MUNICIPAL CODE RELATING TO ANIMAL REGULATIONS

WHEREAS, chronically barking dogs can be highly disturbing to surrounding residents and create a public nuisance; and

WHEREAS, chronically barking dogs may result from owner neglect or abuse; and

WHEREAS, the City has a substantial interest in protecting both the safety of dogs and the peace and quiet of residents throughout the City;

WHEREAS, the current process for addressing barking dogs is cumbersome and involves substantial delay; and

WHEREAS, a revision to the City's animal regulations is needed to specifically address the problem of barking dogs and the public nuisance they create and to streamline the complaint and citation system for barking dogs.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 3 of the Costa Mesa Municipal Code is hereby amended by adding Section 3-8 to Chapter I, to read as follows:

Sec. 3-8. "Barking dog" defined.

"Barking dog" means a dog that barks, bays, cries, howls or makes any noise audible beyond the boundaries of the property on which the dog is situated for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of incessant barking, baying, crying, howling or making of any noise for thirty (30) minutes or more in any twenty-four-hour period, or intermittent barking, baying, crying, howling or making any noise for sixty (60) minutes or more during any twenty-four-hour period. A dog shall not be deemed a "barking dog" for purposes of this article if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is being teased or provoked.

Section 2. Title 3 of the Costa Mesa Municipal Code is hereby amended by adding Sections 3-113 and 3-114 to Chapter IV, Article 1, to read as follows:

Sec. 3-113. Barking dog – Public nuisance.

The city council of the City of Costa Mesa hereby decrees that maintaining, keeping and/or permitting a barking dog, as defined in section 3-8 of this Code, on any premises

in the City of Costa Mesa constitutes a public nuisance. Every day the barking dog violation exists beyond the ten day notice period to correct the problem, as set out in Section 3-114 of this Code, shall be regarded as a new and separate offense.

Sec. 3-114. Barking dog – Enforcement.

(a) Any animal control officer or police officer has the authority to issue an administrative citation pursuant to the procedures set forth in sections 1-34 through 1-48 of this Code to any responsible person for a barking dog violation that the enforcement officer did not see or hear based upon a complaint signed under penalty of perjury lodged by a member of the community who has been disturbed by the barking dog. All barking dog complaints shall be lodged with the Costa Mesa Police Department.

(b) Prior to issuing the administrative citation to the responsible person the enforcement officer shall send a warning notice via first class mail or shall personally serve upon the responsible person a warning notice giving the responsible person ten (10) days from the date of mailing or date of personal service in which to abate the public nuisance caused by the barking dog.

(c) The administrative citation shall contain the information set forth in section 1-38 of this Code.

(d) The responsible person shall have the right to appeal the administrative citation as set forth in sections 1-42 through 1-47 of this Code.

(e) The procedures established in this section may be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the municipal code.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2008.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 08-6 was introduced and considered section by section at a regular meeting of said City Council held on the 5th day of August, 2008, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2008, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2008.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa