

# SAMPLE LETTER

## COURTESY ABATEMENT LETTER – HABITUAL ANIMAL NOISE

**Dear Animal Owner:**

A complaint has been received by County Animal Care & Control that your animal(s) is/are causing a nuisance to your neighbors by its continuous and habitual loud noises.

Responsible pet ownership requires that owners of pets do not allow their animals to annoy others and comply with all animal regulations.

A continued nuisance of this type could be considered a violation of Section 32.0119 of Chapter 1 of Division 2 of Title 3 of the San Bernardino County Code which reads as follows:

### **32.0119 Animals Which Habitually Make Noise.**

(a) Excluding noise from property not zoned for residential purposes (property without “R” in its zoning classification), it shall be unlawful for any person owning or having control of one or more of any animal, either willfully or through failure to exercise proper control, to allow such animal to habitually bark, howl, crow, or make any other loud noises in such a manner as to at any time, day or night, cause general annoyance or discomfort to a neighboring inhabitant. The standard of general annoyance or discomfort is a “reasonable person” standard, i.e., is the noise such that a reasonable person, under the same or similar circumstances, would suffer annoyance or discomfort.

(b) Evidence of a violation may be based upon complaints from neighboring inhabitant(s), hereby defined as persons living within two hundred (200) yards of such animal owner or keeper’s premises, or if said animal wanders outside of said premises, within two hundred (200) yards of any place where such animal wanders outside of said premises. If there is more than one neighboring inhabitant, as defined above, evidence of a violation requires complaints from at least two (2) neighboring inhabitants living in separate residences. If there is only one neighboring inhabitant, evidence of a public nuisance may be based on a complaint from only one (1) person or persons in that household. If there is more than one neighboring inhabitant, as defined above, evidence of a public nuisance may, upon application of a single complaining neighboring inhabitant, be established by that person by seeking a waiver from the chief officer of two-complaint requirement. To obtain such a waiver, a single complainant shall provide to the Animal Control Officer additional, credible evidence of a violation, which may include, but is not Public Health Animal Care and Control Division Corwin Porter Director Joshua Dugas Assistant Director Michael A. Sequeira, M.D. Health Officer 351 N. Mt View, San Bernardino, CA 92415-0003 | Phone: 800-472-5609 Fax: 909-387-6204 PAGE 2 of 4 limited to, tape recordings, videotapes, sound monitoring logs, photographs, maps, or declarations of other persons. If the complainant(s) lives in excess of two hundred (200) yards of such animal owner or keeper’s premises, that person or those persons may establish evidence of a violation by seeking a waiver from the chief officer of the two hundred (200) yard requirement. To obtain such a waiver, a

complainant or complainants living more than two hundred (200) yards from the noise shall provide to the Animal Control Officer additional credible evidence that he/she/they are experiencing a level of noise comparable to a person residing within two hundred (200) yards of the noise, which evidence may include, but is not limited to, tape recordings, videotapes, sound monitoring logs, photographs, maps, or declarations of other persons living a similar distance away from the house.

(c) The Animal Control Officer will substantially follow the procedures below in responding to all complaints of noisy animals, however, the procedures and timelines set forth herein are discretionary and not mandatory. Should a particular stage in the process take longer than the period set forth, or should exceptional circumstances require any of the periods to be shortened, the process may proceed to the next step without the necessity of repeating any prior step.

(1) Upon receiving an initial complaint from any person, either orally or in writing, the owner(s) or keeper(s) of the animal that may be violating this section will be sent a courtesy abatement letter. The letter will notify the owner(s) or keeper(s) that San Bernardino County Animal Care and Control has received a complaint or complaints regarding his/her/their animal(s) that may be in violation of this section, describing the substance of the complaint. The letter will also explain the process and potential costs/consequences for all parties of the process going to citation, will encourage the parties to attempt to resolve the complaint themselves, and, if that is unsuccessful, to seek mediation services, and will provide information on free and low cost mediation services available. Upon sending out the initial courtesy abatement letter, Animal Care and Control personnel will enter the date and address of the animal owner or keeper in the Nuisance Animal Noise Letter Log that is kept on file. A blind copy of the letter will be sent to the complainant, with a cover memo requesting the complainant contact Animal Care and Control if the noise has not abated by the end of the two-week period specified in the letter. At the same time the initial letter is sent, the complainant will be sent a Nuisance Animal Noise Complaint Information Sheet along with two Nuisance Animal Noise Complaint Forms, with instructions that, if the nuisance has not abated by the end of the two-week period, to complete the form and have at least one neighboring inhabitant in a separate household complete the second form. The complainants must complete and sign the forms under penalty of perjury, and return them to Animal Care and Control. The letter shall also contain a Waiver Application Form, and advise a single complainant, or complainants or a complainant that lives further than two hundred (200) yards from the animal owner(s) or keeper(s), that he/she/they may, by filling it out, obtain from the chief officer a waiver of the two-complaint requirement. Upon sending out the Nuisance Animal Noise Information Sheet and Nuisance Animal Noise Complaint Form, Animal Care and Control personnel will enter the date, complainant's name and address and the alleged violator's name and address on the Nuisance Animal Noise Complaint Form Log that is kept on file.

(2) If, at the end of the two-week period, the complainant(s) advise(s) Animal Care and Control that the noise is not abated, the complainant(s) will be advised that he/she/they may

file a formal written complaint by submitting the Nuisance Animal Noise Complaint Form. At the time of the second contact, in which the complainant(s) indicate(s) PAGE 3 of 4 that a nuisance animal noise problem still exists, the Nuisance Animal Noise Letter Log will be checked to verify that an initial letter has been sent to the animal owner or keeper.

(3) Upon receipt of two or more completed Nuisance Animal Noise Complaint Forms, or if there is only one neighboring inhabitant or a waiver of the two-complaint rule is granted, an Animal Control Officer will be assigned to serve a Notice of Violation on the animal owner(s) or keeper(s). The notice shall be served in person, or sent first class mail, postage prepaid, and shall advise the animal owner or keeper that he/she will be given two-weeks from the mailing or service of the notice to comply with the provisions of this section in order to avoid further enforcement action. A file will be kept on the residential address of the animal owner or keeper. The completed Nuisance Animal Noise Complaint Form(s) and a copy of the Notice of Violation will be kept on file. A blind copy of the Notice of Violation will be sent to the complainant(s), with a cover memo requesting the complainant(s) contact Animal Care & Control if the noise has not abated by the end of the two-week period specified in the Notice of Violation.

(4) If, at the end of the two-week period specified in the Notice of Violation, the complainants or complainant advises Animal Care and Control that the noise is not abated, a citation will be issued to the violator. The complainants or complainant at that stage must be willing to have his/her/their name(s) appear on the citation in the area designated for "arresting officer". An Animal Control Officer will be assigned to issue a citation to the animal owner or keeper for violation of this section on behalf of the complainant(s). The Animal Control Officer will sign the citation in the area designated for "issuing officer".

(5) Each subsequent day, or portion thereof, that an animal owned or kept by a party receiving a Notice of Violation creates an animal noise nuisance beyond the two-week period specified in (4) above, shall constitute a separate violation and a separate violation may be issued. For each citation issued, steps (6) and (7) below shall be followed.

(6) Once a citation or citations have been issued to the animal owner or keeper, the issuing Animal Control Officer must complete an Investigation Report. The immediate supervisor or Supervising Animal Control Officer II will review the court's copy of the citation or citations and the completed Investigation Report. After the report has been approved and typed, the following documents will be attached and forwarded to the appropriate court:

- (A) Court's copy of the citation or citations.
  - (B) Investigation Report.
  - (C) Copy of the Notice of Violation.
  - (D) All copies of the Nuisance Animal Noise Complaint Form or forms received from the complainant or complainants. If there is more than one complainant.
- (7) A complete copy of the documents that are forwarded to the appropriate court will be placed in the file kept on the animal owner or keeper.

Failure to comply with the above may result in the following penalties per the County Code:

### **32.0120 Penalties**

(a) Any person, firm, partnership, corporation or other entity violating any provision of this chapter shall be guilty of an infraction or misdemeanor as herein specified. Each day or portion thereof such violation is in existence shall be a new and separate offense. Any person so convicted shall be:

(1) Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) and not less than fifty dollars (\$50.00) for a first offense. PAGE 4 of 4

(2) Guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) and not less than one hundred dollars (\$100.00) for a second offense.

(3) The third and any additional offenses shall constitute misdemeanors and shall be punishable by fines not exceeding one thousand dollars (\$1,000.00) and not less than five hundred dollars (\$500.00) or six (6) months in jail, or both.

(4) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.

(b) Payment of any fine or service of a jail sentence shall not relieve a person, firm, partnership, corporation or other entity from the responsibility of correcting the condition resulting from the violation.

(c) In addition to the above penalties, the court may order that the guilty party reimburse the County for all costs of investigating, analyzing, inspecting, abating and prosecuting the enforcement action against the guilty party. The court shall fix the amount of any such reimbursement upon submission of proof of such costs by the County.

(d) The owner, manager, and operator of every activity or facility subject to this chapter shall be responsible for any violation of this chapter by an employee.

### **32.119 Injunction**

Any violation of this chapter is hereby declared to be unlawful and a public nuisance. Upon request of the Health Officer, an action for injunctive relief may be commenced for the abatement, removal and enjoinder thereof in the manner provided by law. Application shall be made to such court that has jurisdiction to grant such relief to abate or remove such illegal activity and to restrain any person from engaging in such illegal activity. The remedy shall be in addition to any other civil or criminal relief or penalty.

Thank you for your immediate compliance.

Please direct any questions by contacting San Bernardino County Animal Care and Control at 1-800-472-5609.