


Source: Health


To: City CouncilFrom: City Manager and Staff 

Council Meeting Date: Apr 21, 2014

Re: Report on Barking Dog Ordinance

EXECUTIVE SUMMARY:

This report details staff's review of the barking dog ordinance. No changes to the ordinance are recommended.

DISCUSSION:

Per Council's request, staff conducted a review of the barking dog ordinance to see if it should be more specific. During prior public comment periods, suggestions were made that the ordinance could be made more specific by suggesting time periods of barking that would be necessary before the ordinance would be violated and suggesting exceptions for provoking a dog. Section 5-56 states: "No person shall own, keep or harbor any dog which, by loud, continual or frequent barking, howling or yelping, shall annoy or disturb any neighborhood or any person, or which habitually barks at or chases pedestrians, or vehicles, whatsoever, to the annoyance of such pedestrian or drivers of such vehicles; provided, however, that this section shall not apply to the city dog pound, veterinary offices and hospitals, or licensed kennels or pet shops."

Staff reviewed barking ordinances from approximately 40 municipalities around the nation. Staff was specifically instructed to identify restrictions on time (i.e. day and/ or night), amount of time a dog could bark, who was allowed to file a complaint and if the ordinance required more than one complainant. The majority of ordinances reviewed were similar to the City of Columbia ordinance and did not contain specifics regarding barking, but remained more vague. A few of the ordinances stated a dog has to bark incessantly for 30 minutes in a 24 hour time period or intermittently for 60 minutes in a 24 hour period. A few cities specifically mentioned violations as only occurring during night time hours, but predominantly, a specific time of day or night was not listed. Approximately one-third of the ordinances required at least two people who are not related and who do not live in the same household to complain before a summons could be issued.

Barking ordinances, both in Columbia and other municipalities, are purposely vague because different aspects of barking are bothersome to different people. The pitch of a dog's bark may not bother one person even if the dog barks for 15 minutes, whereas the same bark may bother another person within 30 seconds. Furthermore, specificity regarding time of day is not advisable because there are residents who work at night and sleep during the day, necessitating the ability to issue a summons for barking at anytime of day. Finally, an eyewitness must testify in court regardless of the time specificity, or lack thereof, in the ordinance.

Staff reviewed the ordinance with the Board of Health. The Board suggested the ordinance be revised as follows (words suggested for removal are in parenthesis and suggested additional words are in bold) :

"No person shall own, keep or harbor any dog which, by loud, continual or frequent barking, howling or yelping, shall annoy or disturb any **neighbors** (neighborhood or any person), or which habitually barks at or chases pedestrians, or vehicles, whatsoever, to the annoyance of such pedestrian or drivers of such vehicles; provided, however, that this section shall not apply to the city (dog) pound, veterinary offices and hospitals, (or) licensed kennels, (or) pet shops, **or dogs purposely provoked into barking, by a person taunting or teasing that occurs adjacent to or on the dog owner's property.**

For the purpose of this ordinance, neighbors shall be defined as any two people not related and not residing in the same household."

The above wording was then shared with the City Law Department and Prosecutor's Office, who recommended that no changes be made to the ordinance. The additional language could make the prohibitions less clear. In addition, they reported that the requirement to have more than one person complain is not a concept found in either criminal or civil law. Civil cases are explicit in their rulings that nuisances from barking dogs can be found when only one neighbor complains while others do not. As for the "provoking" or "taunting" concept, these are already issues that can be brought forward and considered at all stages of a pending charge including trial.

For the reasons stated in this memo, staff recommends no revisions to the barking dog ordinance.

FISCAL IMPACT:

No fiscal impact - for informational purposes only.

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

SUGGESTED COUNCIL ACTIONS:

No action necessary - for informational purposes only.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	