

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: 12/17/2013 **Approx. Start Time:** 9:30 a.m. **Approx. Length:** ⁶⁰30 minutes

Presentation Title: Barking Dogs (Continuous Nuisance) Program | Fines

Department: Department of Transportation & Development

Presenters: Barbara Cartmill, Acting Director, DTD; Diana Hallmark, Dog Services Manager, DTD; Diedre Landon, Senior Policy Analyst, DTD

Other Invitees: Lauren Mac Neill, Director, Resolution Services; Amy Cleary, Mediation Services Supervisor, Resolution Services

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff requests the adoption of a fine structure for a resolution-based program to respond to barking dog complaints.

EXECUTIVE SUMMARY (why and why now):

During the 2013-14 budget session, the Board directed Clackamas County Dog Services (CCDS) staff to revisit the barking dogs program and allocated \$200,000 to the CCDS budget to meet additional related staffing needs. Barking dog complaints are difficult to respond to and resolve. Since most dog owners are not aware that their animal is barking and/or that their neighbors are annoyed, a successful program relies on the participation of both parties to reach a solution.

Barking dog complaint calls often involve neighbor-to-neighbor issues other than the barking dog, and all of the issues must be acknowledged to establish the lines of communication needed to resolve the barking dog issue. This is the premise for continuing the partnership between CCDS and Clackamas County Dispute Resolution. Staff from the Department of Transportation and Development and Resolution Services have worked to develop a program structure (Attachment A) and associated fines (Attachment B) for a resolution-based program.

FINANCIAL IMPLICATIONS (current year and ongoing):

The staff recommended structure captures the cost of staffing a barking dog (continuous annoyance) provision in the County Code.

LEGAL/POLICY REQUIREMENTS:

- Modifications to County Code, Title 5 to enforce barking dog (continuous annoyance) program.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Clackamas County Dog Services will develop a barking dogs program that focuses on education and community resolutions.

OPTIONS:

Option A: The Board adopts the fine structure as shown in Attachment B and instructs staff to prepare amendments to the County Animal Code to allow barking dog enforcement.

Option B: The Board chooses to adopt a revised fine structure and instructs staff to prepare amendments to the County Animal Code to allow barking dog enforcement.

Option C: The Board chooses not to adopt the fine structure and instructs staff not to pursue the adoption of a Barking Dog code provision.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners adopt the barking dog (continuous annoyance) program fine structure as shown in Attachment B and provide staff with direction to draft an ordinance to implement this resolution-based program structure (Option A).

ATTACHMENTS:

Attachment A – CCDS Barking Dogs Program
Attachment B – CCDS Barking Dogs Program, Fines

SUBMITTED BY:

Department Director Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Diedre Landon @ 503.742.4411 or dlandon@clackamas.us.

Attachment A

Clackamas County Dog Services Barking Dogs (Continuous Annoyance) Program

Did you know...?

Community mediation works! It is estimated that mediation can resolve differences between parties about 90% of the time. While the original solution may not be permanent, it resolves the issue at hand.



Resolution Based Process

1. Complaint (1st) - Offer mediation coaching to complainant and dog owner.

- a. Accept complaint at face-value.
 - i. Ask complainant to begin keeping a 7-10 day log (dates/times to identify patterns).
- b. Send letter and brochure to dog owner(s) to educate.

2. Complaint (2nd) – Table mediation required.

- a. Refer all parties to table mediation* - attempt resolution through education. Each party pays \$50 to ensure fair participation at the mediation session.
 - i. If complainant fails to participate in table mediation; no further complaints are accepted.
 - ii. A citation is written for \$300 if the dog owner fails to participate in table mediation.* Citation is written with an option to pay a fine without a hearing. Consider reducing fine to \$100 if owner is willing to attend mediation session to resolve the dispute if the owner participates, this encourages earlier compliance because it is cheaper to pay \$50 for the table mediation.
- b. Dog owner and complainant attend mediation. Failure to comply with terms of mediation results in sanctions, including fines to cover mediation costs.

**For CCDS to refer or issue a citation, if appropriate, the complainant will have to be able and willing to provide an affidavit and log to establish the violation. This step is necessary to ensure we have the right dog and the right owner being charged to attend mediation. An attempt to ensure we aren't permitting folks to randomly complain because of other non-related disputes. CCDS is not going to enforce terms in a mediation agreement. CCDS is only able to enforce code violations, a violation of mediation is a civil matter.*

3. Complaint (3rd) – Officer Investigation

- a. Complainant must file notarized affidavit with supporting documentation (activity log, photos, videos, etc).
- b. Officer response – attempt resolution through education. Citation and possible pending investigation.
 - i. Citation with option to pay a fine without a hearing. Consider reducing fines if owner is willing to attend another mediation session to resolve the dispute.

4. Complaint (4th) – Mandatory Hearing

- a. Citation written for code violation. Mandatory hearing. Fine doubles.
- b. Hearings officer attempts education and orders mitigation through restrictions.

ASSUMPTIONS:

- (1) Process will not escalate past 2nd complaint if complainant fails to attend mediation. If dog owner refuses to attend mediation, process may escalate if additional complaints are received
- (2) Wait a minimum of 8-10 days after sending a letter to accept another complaint; CCDS assumes that a resolution is achieved if no additional complaints are received.
- (3) Non-payment is sent to collections agency and may result in small claims court filing to collect citation revenue(s).
- (4) For CCDS to refer or issue a citation, if appropriate, the complainant will have to be able and willing to provide an affidavit and log to establish the violation. This step is necessary to ensure we have the right dog and the right owner being charged to attend mediation. ^{This is} An attempt to ensure we aren't permitting folks to randomly complain because of other non-related disputes.
- (5) CCDS is not going to enforce terms in a mediation agreement. CCDS is only able to enforce code violations; a violation of mediation is a civil matter.

CONSIDERATIONS:

- (1) Consider implementing and enforcing the ordinance in unincorporated areas only because incorporated cities can use municipal code enforcement services to monitor complaints. (Approximately 50-60% of the barking dog complaints are from city residents.)
- (2) When does the 'restart' the clock on a violation? If a new complaint is received within one year of the last action, should that reinstate the violation from the previous level?
- (3) If an owner voluntarily chooses to surrender the animal to CCDS prior to resolution or court order, should there be a fine in place to cover the cost of care and adoption services?
- (4) When a dog is surrendered as a result of an infraction based order because of a violation, should there be a mandatory deposit or fine imposed if a decision is made to turn the animal over rather than work to correct the behavior?
- (5) Is it possible for the Hearings Officer to order the animal owner to microchip the dog? (Track animal history | Improve owner accountability)

Clackamas County Dog Services
Barking Dogs | Continuous Annoyance Program
Option A - Resolution Based

Process	Complainant	Dog Owner		County Costs Incurred		Notes
		Fine / Citation Written Value	Fine/ Citation Minimum	Dispute Resolution	CCDS Costs	
1st Complaint - Offer mediation coaching to complainant and dog owner. 1) Accept complaint at face-value. a) Ask complainant to begin keeping a 7-10 day log (dates/times to identify patterns). 2) Send letter and brochure to dog owner(s) to educate.					\$15 \$10	
2nd Complaint - Table mediation required.						
1) Refer all parties to table mediation* - attempt resolution through education. Each party pays \$50 to ensure fair participation at the mediation session.	\$50	\$50	\$50	\$300	\$15	*For CCDS to refer or issue a citation, if appropriate, the complainant will have to be able and willing to provide an affidavit and log to establish the violation. This step is necessary to ensure we have the right dog and the right owner being charged to attend mediation. An attempt to ensure we aren't permitting folks to randomly complain because of other non-related disputes. CCDS is not going to enforce terms in a mediation agreement. CCDS is only able to enforce code violations, a violation of mediation is a civil matter.
a) If complainant fails to participate in table mediation; no further complaints are accepted.						
b) A citation is written for \$300 if the dog owner fails to participate in table mediation.* Citation is written with an option to pay a fine without a hearing. Consider reducing fine to \$100 if owner is willing to attend mediation session to resolve the dispute if the owner participates, this encourages earlier compliance because it is cheaper to pay \$50 for the table mediation.		\$300	\$100			
2) Dog owner and complainant attend mediation.** Failure to comply with terms of mediation results in sanctions, including fines to cover mediation costs.		\$300	\$300		\$50	**Mediation estimated to cost \$300 - with owner/complainant \$50 payments we could lower to \$200. Anything less than \$300 fails to capture CCDS employee time.
3rd Complaint - Officer investigation.						
1) Complainant must file notarized affidavit with supporting documentation (activity log, photos, videos, etc.)					\$15	
2) Officer response - attempt resolution through education.		\$500	\$300		\$315	
a) Citation with option to pay a fine without a hearing. Consider reducing fines if owner is willing to attend another mediation session to resolve the dispute. Possible CCDS investigation.						
3rd Complaint - Case Scenario, Cost Recovery:	\$50	\$1,150	\$750	\$300	\$420	
				\$720		
	Complainant	Dog Owner		County Costs		

**Estimate 5-calls per year (out of 400) will make it to the 4th complaint.

4th Complaint - Mandatory hearing.**					\$15	
1) Citation written for code violation.*** Mandatory hearing. Fine doubles.		\$1,000	\$500		\$315	*** Minimum \$500 + the cost of the hearings officer?
2) Hearings office attempts education and orders mitigation through restrictions.						
4th Complaint - Cost Recovery:	\$0	\$1,000	\$500	\$0	\$330	
				\$330		
	Complainant	Dog Owner		County Costs		

Attachment B – CCDS Barking Dogs Program, Fines

Department/Division -- FINES	Authorizing Legislation	Fine set by ORS	ORS auth. Fine	Code auth. Fine	2013/2014 Proposed
DOG CONTROL					
Barking Dog (Continuous Annoyance)					
2nd Complaint (Complainant; attempt resolution through education.) 2nd Offense (Dog Owner; attempt resolution through education.) 2nd Offense (Dog Owner; complaint received after choosing not to attend table mediation - attends mediation.) 2nd Offense (Dog Owner; complaint received after choosing not to attend table mediation.) 2nd Offense (Dog Owner; Fails to comply with terms of mediation agreement.) 3rd Offense (Dog Owner; officer investigation as a result of complaint received -- attends mediation.) 3rd Offense (Dog Owner; officer investigation as a result of complaint received.) 4th & Subsequent Offense (Dog Owner; mandatory hearing as a result of code violation.)	Code §5.01			x	\$50 \$50 \$100 \$300 \$300 \$300 \$500 \$500-\$1000