

Overland Cove HOA Dog Nuisance Guidelines

The HOA Board has received several complaints in recent weeks from homeowners concerning barking dogs. We would encourage all residences to read the three appendices that are part of this document to understand the HOA's duties and responsibilities.

Appendix 1: HOA Attorney Guidance

Appendix 2: Overland Cove HOA Covenants and Restrictions

Article IV Section 7. Animals and Pets

Article VI Section 8. Nuisance

Article XII Section 2. Self-Help

Appendix 3: Huntsville City Ordinance

Sec. 5-8. - Public nuisance

We cannot ignore the complaints of homeowners and our Board responsibilities. In order to address the complaints, we have developed the following guidance. We offer this in the spirit of community.

Guidance to Dog Owners

1. Your dog must remain in your backyard or home unless being walked.
 - When walking your dog, always keep your dog on a leash and under control.
 - Do not allow your dog to defecate or urinate on someone else's property.
 - If your dog defecates in common areas, it is your responsibility to clean the area. The grass between curb and sidewalk is considered common area.
2. It is your responsibility to keep your dog's barking from becoming a nuisance to your neighbors.
 - Between the hours of 10 PM and 8 AM do not leave your dog in your backyard unsupervised.
 - At any time do not leave your dog in your backyard when you are not at home.
3. It is the responsibility of a dog owner to keep their backyard clean of dog waste to facilitate lawn care as well as to eliminate odor problems for neighbors.

Guidance to non-Dog Owners

1. If you consider someone's dog to be a nuisance, please file a complaint with EREM.
 - On the 1st complaint EREM will send a 1st violation notice to the owner asking them to resolve the issue.
 - On the 2nd complaint EREM will send a 2nd violation notice and levy a \$100 fine.
 - EREM will schedule a meeting between the dog's owner and the HOA Board to discuss the issue.
 - On the 3rd complaint EREM will issue a 3rd violation notice to the owner and levy a \$100 fine.
 - EREM will file a formal complaint with Huntsville Animal Services to resolve the issue.
 - On the 4th complaint EREM will issue a 4th violation notice and \$100 fine.
 - EREM will file a formal complaint with Huntsville Animal Services.
 - The owner will be given ten (10) day notice that the Board will seek removal of the dog from the community. See Appendix 3 Huntsville City Ordinance 5.9.

Appendix 1. HOA Attorney Guidance

Letter Dated June 1, 2018

Regarding noisy pets: Article VI.7 of the Covenants states that pets that “make objectionable noise, (including but not limited to barking dogs), or constitute a nuisance or inconvenience to the Association members or Occupants or the owner of any property located adjacent to the community may be ordered to be removed by the Board.”

Pursuant to Article XII.2 of the Covenants, the Board, or its agents, may directly affect this removal upon ten (10) days’ notice.

In addition, Article VI.8 of the Covenants state that it is the responsibility of each Owner to prevent nuisances from arising on their properties.

Violating owners may be subject to fines and suspension of the right to use the common area.

Appendix 2. Overland Cove HOA Covenants and Restrictions

Article IV Section 7. Animals and Pets.

No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Residence, except for dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board.

those pets which are permitted to roam free, or in the sole discretion of the Board, endanger health, ***make objectionable noise, (including, but not limited to barking dogs) or constitute a nuisance or inconvenience to the Association members or Occupants or the owner of any property adjacent to the Community may be ordered to be removed by the Board.***

No pets shall be kept, bred, or maintained for any commercial purpose.

Dogs which are household pets shall always whenever they are outside a Residence be on a leash or otherwise confined in a manner acceptable the Board.

Owners shall be responsible for waste clean-up of their pets.

Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed, and inoculated as required by law.

Article VI Section 8. Nuisance.

It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property.

No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Residence to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community.

There shall not be maintained any plants or animals or device or thing of any sort of whose activities or existence is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community.

Article XII Section 2 Self-Help

In addition to any other remedies provided for herein, the Board or its duly authorized agent shall have the power to enter upon a Residence or any portion of the Community to abate or remove, using such force as may be reasonably necessary, any erection, thing, or condition which violates this Declaration, the By-Laws, the rules and regulations, the use restrictions, restrictions, or the design guidelines.

Except in the case of emergency situations and towing, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help.

All costs incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Appendix 3. Huntsville City Ordinance

Sec. 5-8. - Public nuisance.

It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of

limitation, the following acts or actions by an owner or person in charge of an animal are declared to be public nuisances and are therefore unlawful:

- (1) Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to getting into or turning over garbage containers, or damaging gardens, flowers, and vegetables, or defecating upon the property of another.
- (2) Maintaining an animal in an insanitary environment which results in offensive odors or danger to the animal or to the public health, safety, or welfare; or failing to maintain the animal in a condition of good order and cleanliness which increases the probability of disease transmission.
- (3) Maintaining the owner's property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of animals on the property.
- (4) Allowing or permitting an animal to bark, whine, howl, crow, or cackle in an excessive or untimely fashion to interfere with the reasonable use and enjoyment of neighboring premises.
- (5) Maintaining an animal that is diseased or dangerous to the public health without adequate medical treatment.
- (6) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, bicycles or other vehicles, or animals being walked on a leash.

(Ord. No. 95-693, § 5-13, 10-12-1995)

Sec. 5-9. - Noisy animals.

It shall be unlawful and a nuisance for any person to keep on a residential lot or premises within the city any animal or group of animals, known to such person habitually, continuously, or intermittently to make or emit sounds or noises of such volume and nature as unreasonably to interfere with or disturb the peace, quiet, comfort and repose of a person of ordinary sensibilities within the neighborhood in the reasonable use and enjoyment of adjacent property.

It shall be unlawful and a nuisance for any person to keep on any tract, lot or premises within the city any animal or group of animals, whether housed in a corral, kennel, building or other structure, under such circumstances that the sounds or noises emitted by such animals are of such volume and nature as unreasonably to interfere with or disturb the peace, quiet, comfort and repose of persons of ordinary sensibilities in the reasonable use and enjoyment of any adjacent property used for residential purposes.

Thursday, May 13, 21

Any owner or person in charge violating this section shall be guilty of maintaining a nuisance; however, no prosecution shall be commenced, and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a municipal judge or magistrate of the city.

(Ord. No. 95-693, § 5-14, 10-12-1995)

Cross reference— Noise, § 12-231 et seq.