

BARKING DOG COMPLAINTS

in the City of San Mateo

San Mateo Police Dept.

200 Franklin Parkway
San Mateo, CA 94403
650-522-7620
www.cityofsanmateo.org

Peninsula Humane Society & SPCA

12 Airport Blvd.
San Mateo, CA 94401
650-340-7022
<http://www.peninsulahaneso-ciety.org/>

Peninsula Conflict Resolution Center

1660 S. Amphlett Blvd,
Suite 219
San Mateo, CA 94402
650-513-0330
650-513-0335 Fax
www.pcrweb.org

The San Mateo Police Department, in conjunction with the San Mateo City Attorney's Office, has established a program to assist residents in obtaining relief from habitually barking dogs causing a nuisance in their neighborhood.

Due to budget restraints the San Mateo Police Department no longer dispatches police officers to barking dog complaints.

Barking dogs are a serious nuisance. Because of limited police and governmental funding, however, the police department is no longer able to assist the community by responding to complaints of habitual barking. In fact, in most circumstances, by the time an officer arrives at the scene the dog is no longer barking and a police unit is unavailable for more serious public service calls.

This program has been established to assist San Mateo residents with their efforts towards resolving the problems associated with habitually barking dogs. This program is designed to encourage residents to reach a reasonable resolution with their neighbors through direct communication and mediation with the offending dog owner before pursuing legal action. If repeated attempts through private dispute resolution fail and legal action is required, the enclosed material provides the required information necessary for the City Attorney's Office to prepare a criminal complaint for prosecution.

Habitual dog barking is prohibited by San Mateo Municipal Code, Chapter 8.02.070(c). Habitual barking is defined as barking by one or more dogs for extended periods of time. The San Mateo Police Department considers barking to be habitual when it has occurred for more than five (5) minutes per incident per day. Repeated incidents of habitual barking occurring over several days may result in infraction citations which are similar to parking ticket violations or more serious misdemeanor charges. The City Attorney's Office will review a complaint of eight (8) incidents of barking that occur in a one-month period.

In order to prove a charge of habitual barking, specific factual information is required and strong evidence is necessary. The Police Department and the City Attorney require complaining neighbors to maintain a log of the dates and times in which an identified dog, at a specific location, is disturbing the peace of the neighborhood. Additional supporting evidence should include a date-stamped audio-recording of the offending dog from the location of the complainant's property as it is habitually barking.

A complaint of habitual barking is stronger if it is supported by more than one neighbor. Therefore, the Police Department and City Attorney have determined that at least one other neighbor must verify that the dog's barking was habitual and caused a nuisance on at least five incidents. Witness verification must be provided in the form of a declaration signed under penalty of perjury by each witness specifically stating the dates and times of each incident of habitual barking. A declaration and an incident log are included in this informational packet. If you have questions about the declaration and/or logging procedure you may contact the San Mateo Police Department.

When preparing a complaint of habitual barking be sure to note on the *Barking Dog Incident Log*:

1. The date and time the barking started, and when the barking stopped.
2. The specific address of the dog and your address. Please remember that the barking must be audible from within your home, and barking must be continuously audible for at least five minutes.
3. Evidence, if available, based on personal observation, that the dog was not provoked into barking.
4. The eight (8) incidents of habitual barking must take place over a one-month period of time.

You must comply with the requirements that:

- Two courtesy cards documenting eight (8) or more days of habitual barking was sent by certified mail, return receipt requested, to the offending dog owner, with a copy retained for proof.
- Private mediation or arbitration has been attempted, refused, and failed. (If you would like assistance in discussing this issue with your neighbor(s), contact the Peninsula Conflict Resolution Center (PCRC) at 513-0330. **Please note that PCRC charges \$25 per mediation session.**
- Prior to submitting your package for review, you and at least one neighbor have signed the declaration under penalty of perjury that your neighbor observed five (5) incidents and you have complied with all of the above requirements.

Once a completed package is submitted to the San Mateo Police Department, the package will be reviewed for completeness. Packages that are incomplete or unsigned will result in no action being taken by the Police Department or the City Attorney's Office. Provided the complaint package is complete, the Police Department will send a formal warning letter advising the dog owner that the problem has resulted in a nuisance and that unless the problem is remedied within five (5) business days, the matter will be referred to the City Attorney's Office for review to determine whether charges will be filed. It shall be the sole discretion of the City Attorney's Office to prosecute a claim, and the City Attorney's office will send the complainant a letter advising whether the complaint will be prosecuted or whether other action will be taken to resolve the problem.

Unless the charge results in a guilty plea or negotiated settlement, the case will be set for trial. Most cases are set for trial approximately six (6) months from the time the case is filed with the Superior Court. If a case is set for trial, all witnesses, including the complaining neighbors will be subpoenaed to testify at trial. Attendance at the trial is mandatory for complaining neighbors and witnesses.

If the matter proceeds to trial, a Superior Court judge, with or without a jury, will hear testimony, review the evidence and then decide if the evidence supports a finding of guilt. If found guilty, a defendant faces a fine of up to \$1,000, six months in jail for each charge, and court probation. While the City Attorney may make a recommendation regarding sentencing, the judge at the hearing has the sole discretion to determine the actual sentence.

For more information on the prosecution of barking dogs and how owners can prevent dogs from barking, the San Mateo Police Department has enclosed specific literature in this packet. If you need additional help with barking issues, you can call the Peninsula Humane Society's Animal Behavior helpline at 340-7022, ext. 783.

Complaining neighbors may submit completed original packets to the San Mateo Police Department, Monday-Friday, 8:00 a.m. to 5:00 p.m.; Wednesdays until 6:00 p.m. Complainants should make copies of the submitted information prior to delivering the packets to the Police Department.

Please Remember:

Enforcement of the laws against barking dogs is possible only with the cooperation and assistance of the residents of San Mateo themselves. The Police Department and City Attorney's Office cannot solve barking dog problems without your participation. Please take the time to fully document each offense and obtain proper evidence so that the law can be enforced.