

[Title 7 ANIMALS](#)

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**Chapter 7.32 ANIMALS AS NUISANCES\***[\\*Note to Chapter 7.32](#)[7.32.010 Dog defecation--Removal.](#)[7.32.020 Animal nuisances.](#)[7.32.030 Complaint.](#)[7.32.040 Investigation of complaint.](#)[7.32.050 Notice.](#)[7.32.060 Impoundment pending hearing.](#)[7.32.070 Hearing.](#)[7.32.080 Oath.](#)[7.32.090 Evidence.](#)[7.32.100 Subpoena power.](#)[7.32.110 Record.](#)[7.32.120 Findings and order.](#)[7.32.130 Failure to comply with order.](#)**\*Note to Chapter 7.32**

\* Prior history: Prior code § 4444. Ords. 297 and 577.

**7.32.010 Dog defecation--Removal.**

A. It is unlawful for the owner or person having custody of any dog to suffer, permit or allow such dog to defecate on any private property in the city without the consent of the owner or person in lawful possession of the property or on any public property in the city.

B. It is unlawful for the owner or person having custody of any dog that defecates on any private property in the city without the consent of the owner or person in lawful possession of the property or on any public property in the city to fail to immediately remove the feces by placing it in a closed container or to thereafter fail to deposit the feces in a trash receptacle.

C. Every person who violates any provision of this section is guilty of an infraction. The provisions of this section shall not apply to a legally blind person who is accompanied by a seeing-eye dog which has been trained by a person licensed under Section 7200 et seq. of the Business and Professions Code, and on-duty city police dogs. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

**7.32.020 Animal nuisances.**

A. Any animal, except an animal kept or controlled by a governmental agency, which has committed any one or more of any of the following acts is a public nuisance:

1. An unprovoked infliction of physical injury upon any person where such person is conducting himself or herself lawfully;
  2. Unprovoked threatening behavior toward any person where such person is conducting himself or herself lawfully which occurs in such circumstances as to cause such person reasonably to fear for his or her physical safety;
  3. The utterance of barks or cries which are so loud and/or so frequent and/or continued over so long a period of time as to deprive persons residing in two or more residences in the neighborhood of the comfortable enjoyment of their homes;
  4. An unprovoked infliction of physical injury upon any other animal which occurs off the property of the owner or keeper of the animal inflicting the injury;
  5. The damaging of the real or personal property of some person other than the owner or keeper of the animal which occurs off the property of the owner or keeper of the animal;
  6. The dumping of trash cans or the spreading of trash which occurs off the property of the owner or keeper of the animal;
  7. The chasing of pedestrians, vehicles or horses which occurs off the property of the owner or keeper of the chasing animal.
- B. Such public nuisance may be abated in accordance with the procedures set forth in this chapter. Such procedures are in addition to any other remedies which may be available under the law. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.030 Complaint.**

Any person aggrieved by such public nuisance may file a complaint with the poundmaster. Such complaint shall be in writing, shall be signed by and bear the address of the complainant, shall state the place or places where such nuisance exists, shall describe the animal and the conduct which renders it a nuisance, and shall give the name and address of the animal's owner or keeper if known to the complainant. (Ord. 945 § 1 (part), 2001: Ord.860 § 1 (part), 1996.)

### **7.32.040 Investigation of complaint.**

Upon receipt of a complaint as described in Section 7.32.030, the poundmaster shall review the matter to determine whether sufficient evidence exists to warrant an investigation to determine prima facie, whether a public nuisance exists.

In the event that the poundmaster determines, based upon such review or based upon knowledge or information other than from the filing of a complaint, that potentially a public nuisance within the meaning of Section 7.32.020A exists, the poundmaster shall conduct an investigation as described below.

The poundmaster for the purpose of such an investigation shall take any and all necessary steps in his or her discretion, including, but not limited to, observation of the animal, interviews with the animal's owners, the complainant, neighbors and other interested persons.

If the poundmaster concludes that sufficient evidence exists to warrant a hearing on the allegations, then the matter shall be set for hearing before the poundmaster. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.050 Notice.**

If the poundmaster determines that a hearing on the allegations is warranted, then notice shall be in writing and may be served either by personal delivery of a copy or by depositing a copy in the United States mail, postage prepaid, addressed to the person who filed the complaint and the animal's owner or keeper with a copy of the notice to the city manager. The notice shall do the following:

- A. Include a copy of the complaint;
- B. State that a hearing will be held to determine whether the animal described in the complaint is a nuisance within

the meaning of Section 7.32.020A and, if so, that the nuisance may be abated as provided in this chapter;

C. State the time, which shall not be less than 15 calendar days after the date of the notice, and the place of the hearing; and

D. Include a copy of this chapter. (Ord. 945 § 1 (part), 2001: Ord.860 § 1 (part), 1996.)

### **7.32.060 Impoundment pending hearing.**

If it appears to the poundmaster from the complaint or the investigation that the animal is being kept or maintained in a manner which poses an imminent threat to the safety of persons or property, the poundmaster may impound the animal immediately, and may hold the animal until the findings are issued pursuant to Section 7.32.120.

If the findings are that the animal is not a public nuisance, the poundmaster shall order the animal released to the owner or keeper without payment of any impound fees. If the order is that the animal be destroyed, the poundmaster shall hold the animal for an additional seventy-two hours and then shall destroy it in a humane manner. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.070 Hearing.**

The hearing shall be public and shall be held before the poundmaster at the time and place noticed or at such other time or place as may be mutually agreed to by the poundmaster, the complainant, and the owner or keeper of the animal. Notwithstanding the foregoing, the poundmaster may continue the hearing to such time and place as may be reasonably necessary for the convenience of witnesses or other parties. Failure of the owner or keeper of the animal to appear at the hearing or any continuance thereof shall constitute a default. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.080 Oath.**

The poundmaster shall have the power to administer oaths or affirmations when necessary in conjunction with the hearing. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.090 Evidence.**

Oral evidence need not be taken under oath or affirmation unless either the owner or keeper of the animal or the complainant so requests and it appears that the witness has a motive for being untruthful. Testimony may be given in an informal narrative style.

Complainant, the owner or keeper of the animal, and the poundmaster shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any matter relevant to the issues even though such matter was not covered on direct examination, and to impeach any witness regardless of which party first called the witness to testify. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law objection in a civil action. Hearsay evidence shall be admissible for any purpose but shall not be sufficient itself to support a finding unless it would be admissible over objection in a civil action. (Ord. 945 § 1 (part), 2001: Ord. 860 § 1 (part) 1996.)

### **7.32.100 Subpoena power.**

Before the hearing has commenced, the poundmaster shall, at the request of the complainant or keeper of the animal, issue subpoenas and subpoenas duces tecum for attendance or production of documents at the hearing.

Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. After the hearing has commenced, the poundmaster may issue such

subpoenas and subpoenas duces tecum as he or she deems proper. Any person duly subpoenaed to appear and testify or to produce any books and papers before the poundmaster who wrongfully neglects or refuses to appear or to testify or to produce such books and papers is guilty of a misdemeanor. (Ord. 945 § 1 (part) 2001: Ord. 860 § 1 (part), 1996.)

### **7.32.110 Record.**

The poundmaster shall record the hearing on a recording device and shall make such recording available to the complainant and to the owner or keeper of the animal upon request. The poundmaster shall provide a copy of the recording or a transcript prepared therefrom to any party who requests it and pays the cost of making such copy or preparing such transcript. (Ord. 945 § 1 (part) 2001:Ord. 860 § 1 (part), 1996.)

### **7.32.120 Findings and order.**

At the conclusion of the hearing, or within a reasonable time thereafter, the poundmaster shall make a written finding that the animal either is or is not a public nuisance as defined in Section 7.32.020A. Such finding shall be supported by the weight of the evidence presented at the hearing provided that:

If no evidence is presented, the finding shall be that the animal is not a public nuisance, unless the owner or keeper of the animal has defaulted by failing to appear, in which case the finding shall be that the animal is a public nuisance.

If the finding is that the animal is a public nuisance, the poundmaster shall determine what actions, up to and including humane destruction of the animal, are reasonably necessary in order to abate the nuisance and shall enter an order that the owner or keeper of the animal take all such actions within such time limits as the order may prescribe. The findings and order shall be final when issued and shall be served promptly on the owner or keeper of the animal either by personal delivery of a copy or by depositing a copy in the United States mail, postage prepaid, addressed to the owner or keeper. (Ord. 945 § 1 (part), 2001.)

### **7.32.130 Failure to comply with order.**

Failure of the owner or keeper of the animal to take any action required of him or her by the order of the poundmaster within the applicable time limit specified in the order is a misdemeanor/infraction; provided, however, that humane destruction of the animal within such time limit shall be deemed compliance with the order regardless of the abatement action specified in the order. Each day or portion thereof that such noncompliance continues after such time limit is a separate offense. The poundmaster may seize and summarily destroy any animal being kept or maintained in violation of such order of the poundmaster. (Ord. 945 § 1 (part), 2001.)

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