



Speeding
&
Barking Dogs
in
Associations

MULCAHY
Community
Association
Cheat Sheet®

BRINGING ANSWERS
TO COMMUNITY
ASSOCIATIONS

This publication discusses significant points of law as they apply to community associations and is not intended to offer specific legal advice or responses to individual circumstances or problems.

MULCAHY LAW FIRM, P.C.

3001 East Camelback Road
Suite 130

Phoenix, Arizona 85016

Phone: 602.241.1093

Toll Free: 877.206.7164

Facsimile: 602.264.4663

E-mail:

bmulcahy@mulcahylaw.net

krosenbeck@mulcahylaw.net

www.mulcahylawfirm.net

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SPEEDING IN ASSOCIATIONS

Over the past few years, our firm has heard horror stories from association boards and residents regarding owners, residents and vendors speeding and/or failing to obey traffic signals on association streets.

Drivers who do not obey the speed limit within an association are a growing problem for community associations. Association residents want to feel safe in their front yards or while they are walking in their neighborhood. Traffic speed limits are designed to keep association members safe by posting maximum vehicular speeds. Factors such as street location, street size and number of vehicles per day are all used to determine the safest speed vehicles should travel.

ASSOCIATIONS HAVE A DUTY TO KEEP COMMON AREAS SAFE

It is important to note that under Arizona law, associations have a duty to maintain the common areas in a reasonably safe condition. This responsibility extends to lot/unit owners, their tenants and their guests. In addition, an association has a duty to take reasonable measures to protect against foreseeable activities that create a danger on the land it controls. As such, if the speeding problem is creating danger within the association, it is my opinion that the association has a duty to take reasonable measures to protect its residents.

SUGGESTIONS TO REDUCE SPEEDING IN AN ASSOCIATION

Set forth below are several suggestions for associations with speeding problems in their associations:

1. Create a **"traffic safety committee"** to research the speeding problem and provide solutions to reduce or eliminate speeding in the association.
2. Check with your city/town to find out if they have a **speed awareness, speed reduction program** or any other ways they might support the association with a speeding problem. The type of support available from your municipality will depend on whether the association streets are public or privately owned.
3. **Educate and enlist the help of your membership.** Use your newsletter, web site, bulletin boards and any other means to communicate the dangers of speeding in the association.
4. **Obtain and place a speed awareness trailer** on streets where there is a speeding concern. Solar powered trailers are equipped with a radar unit that tracks and displays a motorist's speed and can remain in a neighborhood for several days. Your municipality may be able to help you obtain a trailer.
5. **Use a radar tracking device.** Residents and/or police use a hand held radar unit to monitor traffic speed and record vital motorist information for the association. Speeding motorists are sent a letter informing them of the violation and requesting that they obey neighborhood posted speed limits.
6. **Post signs in the community** regarding speed limits and children at play. Check with your city/town to determine if they can post permanent signs or request specific requirements for the signs if the association posts them.
7. **Use devices such as speed humps, traffic circles, plantings and traffic diverters.** Your city/town will have the requirements for these permanent speed reducers and must be contacted if you plan this type of calming device.
8. **Contact vendors** if you witness their employees speeding in the association.
9. **If you have private streets and posted speed limits which are incorporated into the association's documents, fine owners for speeding** in the association after notice of the violation and an opportunity to be heard. Associations with public streets may ask the police to monitor areas of concern.

BARKING DOGS

Dog barking in associations and complaints by the surrounding owners are a common problem in community associations. Police report barking dogs rank as one of the highest number of complaints they receive.

TYPICAL CAUSES OF DOG BARKING

According to experts, determining why the dog barks is the first step in training the dog not to bark. The typical causes for barking dogs are the following:

- Boredom;
- Children or others teasing the dog;
- Hostile neighbors;
- Separation anxiety;
- Changes to a dog's life or lifestyle;
- Possible health issues (such as irritations or discomforts);
- Distractions;
- Lack of shade, food or water; and
- Breeding.

TIPS AND IDEAS TO QUIET THE NEIGHBORHOOD

Set forth below are tips and ideas that might help quiet the neighborhood:

1. Contact Dog Owner: The complaining parties should contact the dog's owner to make them aware of the problem. Discussing the situation calmly with your neighbor can be the fastest and most effective way to resolve the problem. In many instances, a dog is barking when the owner is away from the home and the owner may not be aware of the problem. Owners tell animal control officers that they wished someone had talked to them before calling animal control. If you are hesitant about contacting the dog's owner in person, animal control suggests that you leave a polite note on the door with your name and number to discuss the problem.

2. Contact the Association: If speaking with the owner does not work, contact the association and request that the association intervene. The association may have a nuisance provision in its documents or a rule prohibiting dog barking and can send the owner a warning letter regarding the barking dog, thereby notifying the owner that the barking dog is creating a nuisance in the association. If the dog owner fails to comply with the warning letter and the association's CC&Rs have a nuisance provision, the association has the right to impose a reasonable fine for a violation of its CC&Rs, bylaws and/or rules and regulations after notice of the violation and an opportunity to be heard is given to the owner.

3. Contact City/Town: Some owners/associations have contacted their city/town code enforcement or have resolved dog-barking conflicts through the use of city/town mediation programs. In addition, in extreme circumstances after repeated problems, some owners have called the police regarding the barking dogs.

SUGGESTIONS FOR LIMITING DOG BARKING

Owners and associations have successfully used *some* of the following ideas and techniques to stop or limit dog barking in their association:

1. Owners may not know how to handle a barking dog situation and would welcome education. The association may create or secure a special pamphlet regarding barking dogs (see address below) that they can send to offending residents.

2. The owners inserted a dog door and "dog proofed" a section of the house providing dog toys and enticements. The dog chose the option of being comfy inside rather than bark at noises and neighbors;

3. Ask a professional to speak on the subject at a board meeting;

4. The complaining party, also a dog owner, offered to walk the offending dog while the owners were at work – a tired dog barks less;

5. The owners limited the dog's stimulation by restricting its line of sight; they covered the area at the bottom of the gate and fence;

6. Dog daycare two or three times a week helps prevent boredom;

7. Hire and work with a professional dog trainer;

8. Citronella anti-bark collar (the collar sprays a light mist of citronella in front of the dog's nose when the dog barks—dogs do not like the hissing sound or the smell of the citronella);

9. Anti-barking shock collars;

10. Electric devices such as "Bark Free" (this system responds to a barking dog up to 50 feet away by emitting a high pitched tone that humans cannot hear and that dogs do not like); and

11. Debarking surgery (dogs have a fold of tissue on each side of the larynx which must tighten and vibrate to bark)—debarking surgery removes this tissue. After the operation, the dog only has a whispery bark. However, this procedure is *controversial* and some experts claim that some or all of the barking returns over time. Since the surgery can be unsatisfactory and because many people consider it cruel, veterinarians *seldom* suggest debarking as a solution to barking problems.

Arizona Humane Society PDF, "Understanding the Barking Dog" can be downloaded by going to:
www.azhumane.org,
click on "Pet Tips", "Behavior Tip Sheet", "Dogs",
scroll to "Understanding the Barking Dog" - **OR**
<http://www.azhumane.org/PDFs/behavior/dogs/barkingdog.pdf>