

# CITY COUNCIL AGENDA

CITY COUNCIL CHAMBERS . 11465 WEST CIVIC CENTER DRIVE . AVONDALE, AZ 85323

WORK SESSION  
July 20, 2009  
6:00 PM

## CALL TO ORDER BY MAYOR ROGERS

### 1 ROLL CALL BY THE CITY CLERK

### 2 TRES RIOS PROJECT

City Council will receive an update from staff regarding the implementation of the Tres Rios project. For information and discussion only.

### 3 PROPOSED AMENDMENT TO CHAPTER 3 OF THE AVONDALE CITY CODE (NOISE)

City Council will consider a proposed amendment to Avondale City Code Chapter 3, Article II (Livestock, Fowl, etc.), Section 3-24 (Noise) relating to the harboring or keeping of any animal that disturbs the peace. This item is for information, discussion and direction.

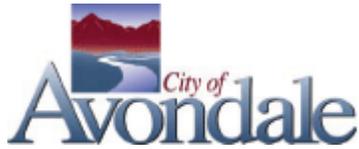
### 4 ADJOURNMENT

Respectfully submitted,

A handwritten signature in cursive script that reads "Carmen Martinez".

Carmen Martinez  
City Clerk

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.



# CITY COUNCIL REPORT

**SUBJECT:**  
Tres Rios Project

**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council

**FROM:** Daniel Davis, Director of Parks, Recreation & Libraries (623)333-2411

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Mr. Bob Upham, Project Manager for the City of Phoenix will provide Council a brief report regarding the status of the Tres Rios project.

**DISCUSSION:**

Mr. Bob Upham, Project Manager for the City of Phoenix will provide Council a brief report regarding the status of the Tres Rios project.

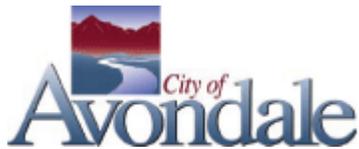
**RECOMMENDATION:**

For information purposes only.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Proposed Amendment to Chapter 3 of the Avondale City Code (Noise)

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council  
**FROM:** Kevin Kotsur, Chief of Police (623)333-7001  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council consider an amendment to Avondale City Ordinance Article II (Livestock, Fowl, etc.), Section 3-24 (Noise) relating to the harboring or keeping of any animal that disturbs the peace. The current ordinance is very broad and is open to interpretation. The recommended changes will add structure to the ordinance and will be similar to other "animals disturbing the peace" ordinances throughout Maricopa County.

**BACKGROUND:**

A specific incident within the City of Avondale led to the Police Department's review of City Ordinance 3-24 which states, "It is unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night."

In November of 2008, a series of telephone calls to the Police Department began from one homeowner against three other neighbor homeowners relative to barking dogs disturbing the peace of the complainant. Between November 01, 2008 and December 31, 2008, 28 barking dog complaints were received by the Police Department from the complainant against the various neighbors. It should be noted that the complainant moved into this neighborhood in October of 2008 and prior to that time, the Police Department had never responded to this neighborhood or to these residents for a barking dog complaint.

The above 28 barking dog calls for service, which received either a Police Officer or Animal Control Officer response, had the following dispositions:

Dog heard barking, verbal warning issued: 03  
No dog heard barking: 18  
Heard Dog, Unable to Contact Owner: 05  
Heard dog barking, long form complaint: 02

In January of 2009, the supervisor over our Animal Control Officers, contacted the three homeowners who had complaints lodged against them by the complainant the previous two months. One homeowner advised that they had gotten rid of their dog, alleging that the complainant intentionally walked behind their home at night with a flashlight, shining it on their dog to antagonize it to bark. A second homeowner still had their dog and they were quite disturbed by this entire situation. They stated that they would see a person at night walking with a flashlight behind their home. They were to appear in court later that month on a violation of the noise ordinance filed by the complainant. The third homeowner still had their dog, had missed a court date on a violation of the noise ordinance filed by the complainant and was consumed at the time with personal issues.

The supervisor worked with the involved parties, our City Prosecutor and City Judge coordinated mediation between all parties on January 20, 2009. The parties attended the mediation and the Court dropped the complaints.

Between January 20, 2009 and April 06, 2009, there were no barking dog complaints. It should be noted that for six weeks during that period, the complainant was allegedly out of town. However, upon the complainant's return, the complaints on barking dogs resumed.

On April 26, 2009, a long form complaint was issued against one of the homeowners upon an officer's response to a call for service by the complainant and hearing the dog bark. A court date was scheduled for July 01, 2009. The officers and the homeowner showed up for court; however, the complainant did not and the case was dismissed by the court.

### **DISCUSSION:**

Staff conducted research to compare our noise ordinance with other Valley city's noise ordinances. Listed below is a breakdown of that research that includes a summary of each specific city's ordinance.

#### **City of Avondale**

- Unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night.

#### **City of Goodyear**

- Unlawful to harbor or keep any animals or fowl that disturb the peace by loud noises at anytime of the day or night.

#### **City of Surprise**

- No person shall allow a dog that the person keeps, harbors or maintains to bark in a manner that is repetitious disturbance or unreasonably disturbs the peace and quiet of another person.
- **In the event that enforcement agents are called to investigate during a first or second disturbance a citation may be issued which may result in punishment or penalty.**

#### **City of Peoria**

- Unlawful to keep any animal in such a manner so as to disturb the peace, comfort or health of any person residing within the city.

#### **Town of Gilbert**

- A person cannot harbor a noisy dog or animal in the city if it disturbs the peace.
- **At least two complainants from separate residences must sign a petition in order for there to be a summons/complaint issued.**

#### **City of Glendale**

- No dog shall be kept in the City that makes noise and has a habit of barking or howling and disturbs the peace of a neighborhood.
- **The enforcement is handled by Code Enforcement and the complainant must fill out an on-line form and submit it for review.**

## City of Tempe

- **City code requires at least three complainants and a log needs to be completed regarding the animal noise.**
- **Completed logs are sent to Neighborhood Services.**
- **An inspector reviews the logs, contacts the petitioners to verify the information and a notice to comply is sent to the violator.**
- **If voluntary compliance is not obtained a citation will be issued and all petitioners are required to testify in court.**

## City of Chandler

- When a barking dog complaint is received by the Police Department, an officer is dispatched. The officer will research the premise history for any past calls for service involving a barking dog.
- If no previous history exists, a warning will be issued and documented.
  - o The complainant is advised that there was no previous history and that a warning was issued.
  - o The complainant will be advised to keep a log to document the noise.
- If there is a history of a barking dog then a citation will be issued by the officer.

## City of Phoenix

- No person shall keep a dog within the city limits which is in the habit of barking or howling or disturbing the peace and quiet of any person within the city.
- **To make a complaint or submit a petition at least three people must sign the petition and no more than two petitioners can be from the same residence.**
- In the event no further petitioner can be located a video tape of the barking dog and a log can be submitted or an audio tape with log can be submitted or a written log alone can be submitted.

### **BUDGETARY IMPACT:**

None

### **RECOMMENDATION:**

**Option 1:** Maintain the current City Ordinance (3-24) as is.

**Option 2:** Enhance the current City Ordinance by adding the following:

- Must be at least two complainants who are not related and live in separate residences willing to sign a petition against the owner of the nuisance animal.
- All complainants are required to testify in court; otherwise, the case is dismissed.
- Anonymous complaints will not be accepted.

### **RECOMMENDATIONS:**

The Police Department recommends OPTION 2.

### **ACTION ITEMS IF APPROVED BY CITY COUNCIL:**

- Work with City Attorney to amend the current City Ordinance for Council adoption at a future meeting.
- Update the Police Department Website and any related Animal Control brochures.
- Create an on-line petition for complainants. Ensure officers carry blank petitions to hand out.

- Train Police Officers and Animal Control Officers.
- Advise City Judge and City Prosecutor of the amended City Ordinance

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available