

If your claim is for more than \$15,000 in money damages, you must file a lawsuit in Circuit Court. This will probably require hiring a private attorney if you are unfamiliar with the legal process. The elements of proof are the same as in General District Court, but the procedure is more formal and complex.

If you cannot prove damages, you may still seek injunctive relief in Circuit Court by asking the Court to order an end to the barking. Again, a Circuit Court action is more formal and complex and will likely require you to hire a lawyer.

Criminal Action. The Animal Noise Laws in Chapter 4 of the Albemarle County Code make it unlawful for an owner or custodian of an animal to harbor or keep any animal within the County which frequently or for a continued duration howls, barks, or makes other excessive, continuous or untimely sound which reasonably disturbs the peace and quiet, comfort, or repose of any person in the County.

This does not apply to any animal located on property that is zoned as a Rural Areas District of five acres or more, to any animal in an animal shelter or commercial shelter as defined by the County's Zoning Ordinance, or to sounds caused by livestock or poultry.

Excessive, continuous, or untimely sounds mean any howling, barking, or other animal noise which continues for thirty consecutive minutes or more, with no cessation of such sounds for time periods greater than five minutes during the thirty consecutive minutes.

Any person disturbed by excessive, continuous, or untimely animal noises may appear before a magistrate and request that a summons be issued to the animal owner. If the violation occurs in the presence of a police officer or Animal Control Officer, the officer has the authority to issue a summons for the excessive, continuous, or untimely noise.

The Albemarle County Magistrate's office is located at 1610 Avon Street, Charlottesville, Virginia 22902, and is open 24 hours a day. (434) 977-0220.

When going before the magistrate, you will need to provide evidence that there has been continuous and excessive noise from an animal for at least thirty consecutive minutes. Any written documentation of the date, time and duration of the noise, or a tape recording or video recording of the noise, will be helpful in swearing out a summons. If the magistrate finds probable cause for violation of the animal noise ordinance, a summons will be issued to the animal owner and a hearing scheduled in General District Court. You will need to attend the hearing in General District Court and testify in Court, providing evidence of the continuous and excessive animal noise. The General District Court Judge will determine whether the animal owner is guilty of violating the County's animal noise ordinance.

If found guilty by the Court, a violation of this ordinance is a Class 3 misdemeanor, punishable by a fine up to \$500, and the Court may order the animal owner to abate the disturbance.

Upon a third conviction involving the same animal within twelve months, the Court shall order the animal to be removed from any area of the County covered by the ordinance. Failure to comply will result in the animal being seized by Animal Control.

DO YOU HAVE A BARKING DOG PROBLEM?



What to do when a dog's bark is worse than his bite

DISCLAIMER:

This brochure is intended simply to provide information and is not legal advice applicable to individual situations. It should not be relied upon as a full explanation of the law. Before taking legal action, it is always advisable to consult a private attorney.

The County Attorney's office is not authorized to give private legal advice, to represent citizens in private legal actions or to refer citizens to private attorneys.

You may contact the Charlottesville-Albemarle Legal Aid Society at (434) 977-0533 for a referral to a private attorney. Legal Aid does not provide representation for this type of dispute.



Albemarle County Animal Control
1600 5th Street Extended, Suite D
Charlottesville, Virginia 22902
(434) 977-9041
www.albemarle.org/police

If you are being disturbed by a barking dog or noisy animal, you may wish to consider the following steps:

TALK TO YOUR NEIGHBOR FIRST

You are encouraged to speak with your neighbor first. Communicating and informing your neighbor that their animal is creating a disturbing noise may resolve the disturbance. People often do not realize their animal is creating noises and disturbing others.

In approaching your neighbor:

- Give your neighbor the benefit of the doubt. Approach the subject in a manner that suggests you believe your neighbor is unaware of the problem, rather than assuming they know but just do not care.
- Tactfully express your complaint and how the animal has created a disturbing noise.
- Expect a defensive reaction, and be prepared to calmly answer any complaints your neighbor may have about you.
- Express your willingness and desire to work together to find a solution which will satisfy both of you. Ask for ideas your neighbor may have to help solve the situation.
- Discuss your differences on neutral ground, rather than on your property or theirs. Ask questions or make requests, rather than shouting demands.

If the problem persists, make your request to your neighbor in writing. Carefully state the situation in a letter. Do not make threats, but inform them that if the situation does not improve, then the authorities will be notified and appropriate legal action will be taken. Keep a copy of your letter to document your communication with your neighbor. It may be useful if you decide to take legal action against your neighbor.

Keep a written record of the barking incidents.

Write down each date the barking occurs, the duration of the barking, and the time of day. This information will be helpful if legal action is pursued.

CALL THE POLICE

After documenting the occurrences and speaking with your neighbor, report your complaint to the Albemarle Police Department at (434) 977-9041. If an Animal Control Officer is not immediately available, a police

officer will write a report and refer the incident to an Animal Control Officer. An Animal Control Officer will visit the animal owner's home and investigate for signs of welfare or other possible causes of the animal's excessive noise. The Animal Control Officer's findings will be documented and kept on file.

For more information on animal related issues or to contact an Animal Control Officer:

Albemarle County Animal Control
1600 5th Street Extended, Suite D
Charlottesville, Virginia 22902
(434) 977-9041 (434) 972-4061 facsimile**

**This is the non-emergency telephone number for the emergency communication center and is the best way to get in touch with an Animal Control Officer.

Please keep in mind, Animal Control Officers spend 90% of their time in the field responding to service calls and/or investigating complaints. An Animal Control Officer will contact you as soon as possible if they are not immediately available when you call.

File an animal noise complaint online:
<http://www.albemarle.org/policeonlinereporting/>

TRY MEDIATION

Mediation is an informal voluntary process in which parties try to solve their conflicts with the help of trained mediators. Mediation may be used before or after filing a lawsuit. The mediation process is designed to allow the parties to come up with their own solution without a judgment or decision imposed by the mediators. If an agreement is reached between the parties during mediation, the agreement will be put in the form of an enforceable contract and signed by both parties.

One mediation resource is the Mediation Center at FOCUS. FOCUS is a community non-profit organization which provides mediation on a sliding fee basis ranging from no cost to \$100, depending on income, for a two hour session. For more information regarding mediation, please call (434) 977-2926.

LEGAL ACTION

Two different types of court action may be taken: civil action and/or criminal action. More information is available online at <http://www.albemarle.org/police>.

Civil Action. A civil action may be filed in the Albemarle General District Court if the animal noise has caused you to suffer damages. To bring a civil action into General District Court, a warrant in debt must be filed with the General District Court clerk's office. The clerk's office can provide warrant in debt forms and instructions. The clerk of the Albemarle County General District Court may be reached at (434) 972-4004 if you need more information. The warrant in debt forms and instructions can also be found online at:

<http://www.courts.state.va.us/forms/district/home.html>

If your claim is for \$5000 or less in money damages and you desire to represent yourself, you may use the small claims court (part of the General District Court).

If your claim is for \$15,000 or less in money damages, you may file a civil warrant in debt in the General District Court. An attorney may represent you or the defendant, but an attorney may not be necessary.

Whether you file in the small claims court or General District Court, you will need to provide the General District Court clerk's office with the following information to complete the warrant:

- Name of the defendant
- Current address of the defendant
- County or city in which the defendant is located
- The amount to be recovered
- The basis of the claim
- A stamped envelope addressed to the defendant
- \$34 for a claim under \$200 and \$39 for a claim over \$200 plus \$12 for each defendant (i.e., \$46 or \$51 for one defendant; \$58 or \$63 for two defendants)

