

## Community Nuisance – Neighbor to Neighbor

No matter how close or how far we live from each other, there are going to be fights between neighbors. Neighboring farmers may fight over their boundary line or animals getting into the wrong field! Neighbors in an apartment complex could fight over music that is too loud at night or cigarette smoke that triggers asthma. Neighbors on a city block could fight over suspected drug activity.....high foot traffic, loitering, graffiti, etc.

We call these behaviors a nuisance. They may be covered by state and local law. What is a Nuisance? A public nuisance, according to state law, is anything that is:

- ❖ Injurious to health
- ❖ Indecent to the senses
- ❖ Unlawfully impeding free use of the streets
- ❖ Obstructing free use of property so as to interfere with the comfortable enjoyment of life or property

So what can YOU do? Fighting, of any kind, won't solve the problem. Ignoring the problem will only add to your discomfort as you become more and more discouraged and frustrated on top of the original disruption to your 'quiet enjoyment'<sup>1</sup> of your home.

Below we have outlined some steps you can take to attempt to resolve a nuisance.<sup>2</sup>

- ❖ Keep a Log
- ❖ Talk to Your Neighbor
- ❖ Get a Copy of Your Local Ordinance
- ❖ Warn Your Neighbor in Writing
- ❖ Suggest Mediation
- ❖ Call the Police
- ❖ Sue for Nuisance
- ❖ If You're a Tenant
- ❖ If the Behavior is a Problem Because of a Disability
- ❖ What Do I Do if Nothing Works
- ❖ If I Decide to Move

Please note: The behavior that is bothering you may not be considered a nuisance under the law. You should still try to work things out with your neighbor. Try talking and/or mediation. There may be something that can be done so everyone is comfortable.

### Keep a Log

Document every occurrence of the 'nuisance' behavior, of what you say and/or do, of what your neighbor(s) say or do. Keep copies of all letters.

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<sup>1</sup> Legal Term. We are entitled, by law, to the quiet enjoyment of our home. If we are renters, our landlord is responsible for making sure we have quiet enjoyment also.

<sup>2</sup> How to Get Neighbors to Turn Down the Noise, by Cora Jordan, Copyright © 1994 Nolo Press

## Talk to Your Neighbor

Your first step is to talk to your neighbor and try to resolve your differences in person. It's hard to believe, but sometimes neighbors are not aware that they are causing a disturbance. Even if you're ready to come out fighting, try asking questions first.

## Get a Copy of Your Local Ordinance

Your next step is to get a copy of your local nuisance ordinances. Most cities and counties have ordinances that control things like noise garbage, trees and other nuisances. For example, many local ordinances prohibit unreasonable vehicle noise (like honking the car horn early every morning for a carpool) or dogs barking all night long every night. Noisy neighbors are in for a warning or even a fine. You can look up your local ordinance at city hall, a public law library or the public library. Make at least two copies of it, one for your neighbor and one for yourself.

## Warn Your Neighbor in Writing

If things don't improve, ask your neighbor again -- this time in writing -- to change the behavior that you believe is a nuisance. Don't make threats, but state that if the situation doesn't improve you'll be forced to notify the authorities. Enclose a copy of the noise ordinance. Keep a copy of your letter; you'll need it if, as a last resort, you later sue your neighbor.

## Suggest Mediation

Most cities offer free or low-cost mediation services, which means they provide an impartial mediator who will sit down with you and your neighbor and try to help you resolve your differences. Just call the mediation service; someone there will contact the neighbor and suggest mediation. (These people are very good at convincing others to give mediation a chance.)

## Call the Police

If you have done all of the above and your neighbor has responded by turning up the volume, now is the time to call the police. Try to get the police to come while the problem is occurring. However, don't be surprised if the police do not give this problem the priority that you do. They are often very busy with community problems that are a higher priority.

Of course, you can call the police the first time the problem occurs. But the police will be more sympathetic to your situation if they see that you have tried to solve the problem on your own. And if you have documented the nature and severity of the problem.

Date	Sample Letter:
	Recipient's address Dear (neighbor's name): I am writing to discuss the _____ (add specific problem) issue that we talked about recently. Although you agreed that you would remedy the problem, you have made no effort to do so. After consulting our local ordinance (see attached), I feel that I have no alternative but to contact the _____ (add police or local authorities) for assistance in solving the problem. If you would like to discuss this matter further, please contact me at _____ (add phone number). I hope that we can come to some sort of agreement without involving our local authorities. Sincerely, (Sign your name)

## **Sue for Nuisance**

If all else fails, you can get your neighbor's attention-and maybe some money-by suing in small claims court. You can sue your neighbor for nuisance if your neighbor's behavior unreasonably interferes with your enjoyment of your property. In the lawsuit, you ask for money to compensate you for the interference with your right to peacefully enjoy your home.

Small claims court is easy and inexpensive, and you don't need a lawyer. You will need to show the following:

- ❖ There is excessive and disturbing behavior.
- ❖ Your enjoyment of your property is diminished.
- ❖ You have asked the person to stop the behavior (your letter should be enough to prove this).
- ❖ To prove your case, you can use police reports, witnesses, recordings, your own testimony and the testimony of neighbors or other witnesses.
- ❖ The amount you'll want to ask for will depend on how much the behavior bothered you. Did you lose sleep? Were you unable to carry on your usual activities, such as reading, playing music or talking to friends? Decide on a reasonable dollar amount per day, and multiply that figure by the number of days you've been seriously bothered. The amount of money you can ask for in small claims court is limited, between \$2,000 and \$5,000 in most states.

## **If You're a Tenant**

Community nuisances are always Frustrating. But when you share walls with the a neighbor that is engaging in nuisance behavior, the problem is especially vexing. The good news for renters is that, in addition to all your other options, you have built-in allies in the battle to keep your apartment livable: your lease or rental agreement and your landlord.

Remember the lease or rental agreement you signed? Chances are your neighbor signed one too. Standard leases and rental agreements contain clauses that entitle you to "quiet enjoyment" of your home. A neighbor who is blasting the stereo in an unreasonable manner is probably violating the lease or rental agreement and can be evicted for doing so.

If you warn your neighbor about the noise in writing and are sure that your lease entitles you to a reasonable amount of quiet, send a copy of the lease along with your letter. In your letter, tell the neighbor that the next complaint will be to the landlord or neighborhood association if the noise continues.

If warning your neighbor doesn't work, go to your landlord. Most tenants don't like to complain to the landlord or manager about unreasonable noise or other nuisances because they are afraid of being branded as troublemakers. But other neighbors are probably bothered by the nuisance, too. Get together with them and complain to the landlord as a group. It's easier and you might get faster results. Most landlords don't want arguments between tenants and won't put up with tenants who cause trouble by ignoring signed lease or rental agreements. Your landlord may tell the noisy tenant to pipe down or face eviction.

If your landlord refuses to help you may want to consider taking him or her to small claims court so as to address the landlord's responsibility to provide you with 'quiet enjoyment'.

### **If the Behavior is a Problem Because of a Disability**

Sometimes common behaviors are problematic for our neighbors with disabilities. For example, some people's health is seriously compromised by cigarette smoke. So cigarette smoke traveling from one apartment to another is not just an inconvenience but can actually threaten a person's life. This type of problem is complex and not easy to resolve. We suggest that experts in disability law be consultant. Resources are included at the end of this publication. Other problems may be easier to resolve through conversation. A person, as part of a disability, may mumble to himself. Neighbors riding in the elevator may take this behavior as threatening and therefore a nuisance. By following the steps listed above, these neighbors may be able to reach an understanding and tolerance of each other.

### **What to Do If Nothing Works**

One of the greatest lessons we can learn in life is that sometimes problems cannot be solved no matter how hard we try. If talking to your neighbor, seeking mediation, calling the police or local authorities, or even suing your neighbor has not helped ask yourself the following questions:

1. Am I sure that my neighbor is at fault?
2. Have I tried to talk with the neighbor about the problem?
3. Have I researched local ordinances and contacted my neighbor to inform him of the law?
4. If I live in a condo or planned community, have I talked to the condo board or the homeowner's association for help with the problem?
5. Have I sought mediation to solve the problem?
6. Have I contacted police or other local authorities for help with the problem?
7. Have I taken my neighbor to small claims court or regular court to address this problem?
8. Is the problem getting worse (e.g., louder noise, messier yard, continued trespassing or criminal activity)?
9. Has my neighbor retaliated against me in any manner (physical or verbal threats) because I have complained about the problem?

If you answered yes to these questions (especially 8 and 9), it might be time to consider moving away from the problem. While no move assures you of peace and harmony, moving away from your current problem after you have made every attempt to remedy it will probably improve your quality of life.

Or you may want to consider that something else in your life is bothering you and this is contributing to the frustration you are feeling with common community behaviors (loud music during the day, babies crying at night, etc.)

## **If I Decide to Move?**

If you own a condo or house, your move will be as straightforward as listing your house for sale and shopping for a new place to live. But if you are renting, you may need to break your lease.

Will you be able to break break your lease to get away from a problem with a neighbor? That depends on your landlord and the type of agreement that you have with your landlord. Your landlord may be willing to let you out of the lease once you've explained the problem.

If you have rented a property without a lease, you can break the agreement at any time, as long as you provide your landlord with written notice.

You will have a much more difficult time breaking a lease if you have signed a lease to rent a property for a specific amount of time. This agreement may not be broken by the landlord or tenant except under special circumstances. You can break a lease if your landlord significantly violates its terms. Violations, in terms of tenant relation issues, might include a landlord failing to comply with laws that pertain to the health or safety of building tenants. Contact a lawyer or visit law resource sites online for more information on your specific situation.

If you break the lease you will be responsible for the remaining rent that is due, although most states require a landlord to find a new tenant and, when this occurs, not charge you for the remaining rent.

## **Resources**

National Association for Community Mediation's Web site at <http://www.nafcm.org/pg35.cfm>  
To find a local mediation service.

National Contacts: <http://housingrights.org/nationalcontacts.htm>  
For a list of fair housing and legal services organizations around the country.

National Disability Rights Network: <http://www.napas.org/> for a list of local organizations that represent persons with disabilities.

Neighbor Law: Fences, Trees, Boundaries & Noise , Nolo Press ([www.nolopress.org](http://www.nolopress.org)). For more detailed information on community nuisances.

Safe Streets Now – community response to drugs and other nuisances started in Oakland, California. Many local police departments have created Safe Streets Now projects. Call them for more information.

Small claims court information: <http://www.courtinfo.ca.gov/selfhelp/smallclaims/>  
For information on using Small Claims Courts in California