



Washington Police Department

115 WEST JEFFERSON STREET
WASHINGTON, ILLINOIS 61571
NON-EMERGENCY (309) 444-2313
FAX (309) 444-7511

Michael D. McCoy

Chief of Police

TO: The Honorable Mayor Manier and Washington City Council
FROM: Chief Michael D. McCoy and Deputy Chief Jeff Stevens
RE: Vicious Dogs – Substituting Chief of Police for the City Administrator for Hearings
DATE: June 8, 2018

Mayor and Aldermen,

The Department was asked to examine the current City Ordinances related to determination of whether a dog is vicious as defined by the Ordinance in order to understand the potential to improve the efficiency of that determination and provide due process to dog owners.

Currently, the Ordinance allows for the City Administrator to conduct a hearing for such a determination. A change from that designation of the City Administrator as the hearing officer to the Chief of Police or his designee would remove a step from the process, specifically the transfer of investigative information from the Police Department to the Administrator. The designation change could also provide flexibility in hearing scheduling by expanding the potential number of hearing officers (at the Chief's designation) and provide for a hearing officer more accustomed to adjudication functions.

Such a change would require amendment of Sections 91.06, Vicious Or Dangerous Animals, and 91.24, Vicious Dogs. Potential text of the resulting ordinance is attached.

ORDINANCE NO. _____

Synopsis: Adoption of this ordinance would designate the Chief of Police or his/her designee as hearing officer when determining whether an animal is vicious or dangerous.

AN ORDINANCE AMENDING CHAPTER 91 ENTITLED "ANIMALS" OF THE CITY OF WASHINGTON CODE OF ORDINANCES

WHEREAS, the City of Washington is a home rule government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Washington may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City Council of the City of Washington hereby finds that it is in the best interest of the public health, safety and welfare to designate the Chief of Police or his/her designee as hearing officer.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON:

Section 1. That § 91.06 of the City of Washington Code of Ordinances entitled "Vicious or Dangerous Animals" is amended by deleting § 91.06(B) in its entirety and by substituting the following as § 91.06(B):

“(B) An animal shall be deemed to be vicious or dangerous, or shall be determined by the Chief of Police or his or her designee to be vicious or dangerous, by utilizing the procedures and standards hereinafter provided with respect to vicious dogs.”

Section 2. That § 91.24 of the City of Washington Code of Ordinances entitled "Vicious Dogs" is amended by deleting § 91.24(A) in its entirety and by substituting the following as § 91.24(A):

“(A) Determination of vicious dog status:

(1) Any individual dog which has bitten or attacked a human being or other domestic animal either on public or private property and without provocation shall be automatically deemed a vicious dog. Further, such dog may be immediately impounded based on probable cause.

(2) In the event that a law enforcement agent, animal control officer, or the City Administrator has probable cause to believe that an individual dog is a vicious dog, the Chief of Police or his or her designee may convene a hearing for the purpose of determining whether the individual dog in question shall be declared a vicious dog and to determine whether the dog constitutes a significant threat to public health and safety. Prior to the hearing, the Chief of Police or his or her designee shall conduct or cause to be conducted an investigation and shall provide reasonable notification of the hearing to the owner.

(3) Following notice to the owner and prior to the date set for hearing, in the event that a law enforcement agent, animal control officer, or the City Administrator has probable cause to believe that an individual dog is a vicious dog

and may pose an immediate threat of serious harm to human beings or other domestic animals, the law enforcement agent, animal control officer, or City Administrator may seize and impound the dog pending disposition of the hearing. The owner of the dog shall be responsible for payment to the City of Washington for the costs and expenses of keeping the dog.

(4) The hearing shall be held within no less than five (5) nor more than ten (10) days after service of notice upon the owner of the individual dog. The hearing shall be conducted informally and shall remain open to the public. At the hearing, the owner shall have the opportunity to present evidence on behalf of his dog setting forth reasons why the dog should not be declared a vicious dog and not determined to be a significant threat to the public health and safety if returned to its owner. The Chief of Police or his or her designee may decide all issues for or against the owner of the dog regardless of whether the owner appears at the hearing.

(5) Within five (5) days after the conclusion of the hearing, the Chief of Police or his or her designee shall make his determination of the status of the individual dog. The owner shall then be notified in writing of the determination by the Chief of Police or his or her designee."

Section 3. This Ordinance shall otherwise be in full force and effect from and after its passage and approval and publication as required by law.

Section 4. Any Section or provision of this Ordinance that is construed to be invalid or void shall not affect the remaining sections or provisions, which shall remain in full force and effect thereafter.

PASSED AND APPROVED THIS _____ day of _____, 2018.

AYES: _____

NAYS: _____

MAYOR

ATTEST:

CITY CLERK