



Washington Police Department

Michael D. McCoy

Chief of Police

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

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.

§ 91.06 VICIOUS OR DANGEROUS ANIMALS

- (A) Except as otherwise provided herein, no person shall permit any vicious or dangerous animal to run at-large, nor lead any such animal with a chain, rope, or other device, whether such animal is muzzled or unmuzzled, on any street, avenue, lane, highway, or public place.
- (B) An animal shall be deemed to be vicious or dangerous, or shall be determined by the ~~City Administrator~~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.
- (C) No person shall possess any vicious or dangerous animal unless such vicious or dangerous animal is confined in accordance with the provisions, restrictions, and standards applicable to vicious dogs.
- (D) Vicious and dangerous animals which are not properly confined, as hereinabove provided, shall be impounded as provided for vicious dogs.
- (E) It shall be unlawful for the owner, keeper, or harbinger of a vicious or dangerous animal to fail to comply with the requirements and conditions herein contained. Any vicious or dangerous animal found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the immediate removal of the animal from the City of Washington.

(Ord. 1919, passed 6-5-95)

§ 91.24 VICIOUS DOGS

It shall be unlawful for any person to keep, harbor, own, or in any way possess within the corporate limits of the City of Washington a vicious dog, subject to the following exceptions and standards:

- (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 upon 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 City Administrator~~ 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~~City Administrator~~ 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 ~~City Administrator~~ 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 ~~City Administrator~~ 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 ~~City Administrator~~.

(B) Licensing of vicious dogs:

- (1) No person shall possess any vicious dog for a period of more than forty eight (48) hours without having first obtained a license therefor from the City of Washington.
- (2) An application for a license to possess a vicious dog shall be filed with the City of Washington on a form prescribed and provided by the City and shall be accompanied by all of the following:
 - (a) Verification of the identity of the owner and current address by providing a photostatic copy of the owner's driver's license.
 - (b) Proof of ownership of the vicious dog.
 - (c) A copy of the current immunization and health record of the vicious dog prepared by a veterinarian licensed to practice in the State of Illinois.
 - (d) A Certificate of Insurance evidencing coverage in an amount not less than fifty thousand dollars (\$50,000.00), insuring said person against any claim, loss, damage, or injury to persons, domestic animals, or property

resulting from the acts, whether intentional or unintentional, of the vicious dog.

- (e) Two (2) photographs of the vicious dog to be licensed taken not less than one (1) month before the date of the application. One (1) photograph shall provide a front view of the vicious dog and shall clearly show the face and ears of the vicious dog. One (1) photograph shall show a side view of the vicious dog.
 - (f) A license fee of fifty dollars (\$50.00).
 - (g) Such other information as may be required by the City Clerk of the City of Washington.
- (3) Upon receipt of an application, the City Clerk of the City of Washington shall forward such application to the Police Department which shall cause an inspection of the premises on which the vicious dog shall be kept to determine that all provisions of this section relating to confinement and posting of signs have been complied with by the applicant. Upon completion of the inspection, the Police Department shall notify the City Clerk, in writing, of the results of the inspection.
- (4) Upon receipt of the results of the Police Department inspection, the City Clerk shall notify the applicant of the approval or denial of the license. In the event the license is denied, the notification shall be provided in writing and the reasons for such denial shall be stated. Upon denial, the owner or keeper of the vicious dog shall remove the vicious dog from the City within forty eight (48) hours. Upon approval, the City Clerk shall issue a license to the applicant.
- (C) Confinement of vicious dogs: No person shall possess any vicious dog unless the vicious dog is confined in accordance with this section.
- (1) Confinement indoors: No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the vicious dog to exit the structure on its own volition. No vicious dog shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the vicious dog from exiting the structure.
 - (2) Confinement in an exterior yard: No person shall confine a vicious dog in an exterior area unless such vicious dog is confined in a confinement structure constructed and maintained in accordance with this chapter, except that a vicious dog may be confined outside of a confinement structure in a manner set forth in paragraph (C) (3) of this section.
 - (3) (a) Confinement on leash and run line: No person shall permit a vicious dog

to go outside a confinement structure, house or other structure unless the vicious dog is securely restrained with a leash no longer than three (3) feet in length and fitted with a muzzle or securely restrained on a run line no longer than ten (10) feet in length and fitted with a muzzle. No person shall permit a vicious dog to be kept on a leash unless a person is in actual physical control of the leash.

- (b) The only time a vicious dog may be allowed out of the enclosure or off the run line are if it is necessary for the owner or keeper to obtain veterinary care for the vicious dog; or to sell or give away the vicious dog; or to comply with the order of a court of competent jurisdiction; or to allow the owner or keeper to walk the vicious dog, provided that said vicious dog is securely muzzled and restrained with a leash having a minimum tensile strength of at least three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

(D) Impoundment of vicious dogs:

- (1) Any vicious dog which is not properly confined to a confinement structure, on a run line, or properly secured by a leash under the owner or keeper's control shall be impounded by the law enforcement authority having jurisdiction in such area; provided, however, that if the City animal control warden or any City police officer reasonably believes that such dog poses an immediate threat of severe injury to any person, such officials are authorized to kill such dog. Any vicious dog found to be running at large by any member of the Police Department of the City shall be presumed to be in violation of this section and shall be subject to impoundment.
- (2) If the incident giving rise to the impoundment has resulted in an injury to a person, upon impoundment by the Police Department, the Chief of Police, or his designee shall notify the Rabies Control Administrator of the county pursuant to ILCS Ch. 510, Act 5, § 13, as amended, and shall transfer control of the vicious dog to the Administrator in accordance with ILCS Ch. 510, Act 5, § 13, as amended.
- (3) Any dog which attacks a human being or other domestic animal may be ordered destroyed in an expeditious and humane manner, when in the Court's judgment, such dog represents a continuing threat of serious harm to human beings or other domestic animals. However, prior to the destruction of the dog, control of the dog must be transferred to the Administrator pursuant to paragraph (D) (2) of this section.
- (4) Any vicious dog which has previously been impounded for not properly being confined or for running at large in violation of paragraph (C) (1), (C) (2), or (C) (3) hereof, or which has previously bitten or attacked a human being or other

domestic animal without provocation, shall be ordered destroyed in an expeditious and humane manner upon any subsequent violations of those subsections or upon any subsequent unprovoked attack or bite.

- (5) Any dog which attacks a human being, except a dog listed in § 91.001(S)(3) of this chapter, which results in severe injury shall automatically be destroyed in an expeditious and humane manner.
- (E) Redemption of impounded vicious dog: An owner of a vicious dog holding a license, pursuant to this chapter, may redeem an impounded vicious dog if the vicious dog has been impounded pursuant to paragraph (D) of this section; and the vicious dog has not caused severe injury to a person, subject to the following conditions:
- (1) Proof of a valid license issued by the City of Washington under paragraph (B) of this section; and
 - (2) Payment of the cost of keeping the vicious dog during the period of impoundment.
- (F) Sale or transfer of ownership prohibited: No person shall sell, barter, offer to breed or in any other way dispose of a vicious dog to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such vicious dog; provided that the registered owner of a vicious dog may sell or otherwise dispose of a vicious dog or the offspring of such vicious dog to persons who do not reside within the City of Washington provided they give written notice to the person who will be receiving the vicious dog that such dog has been deemed a vicious dog under this chapter.
- (G) Animals born of vicious dogs: All offspring born of vicious dogs registered within the City must be removed from the City within six (6) weeks of the birth of such animal.
- (H) Reporting requirements of license: Any person holding a license pursuant to subsection (B) hereof shall report the incidence of any of the following events:
- (1) The sale, barter, exchange, gift or death of any vicious dog shall be reported within forty eight (48) hours.
 - (2) The escape from confinement of any vicious dog shall be reported upon discovery of the escape.
 - (3) The biting or nipping of any person or animal by a vicious dog shall be reported upon occurrence.
 - (4) The birth of any offspring of a vicious dog shall be reported within forty eight (48) hours of the birth of the offspring.

- (5) The permanent removal of any vicious dog from the territorial limits of the City shall be reported within forty eight (48) hours of such removal by surrender of the license of the owner to the City Clerk.
- (6) Except as otherwise provided in this section, the report of any incident required to be reported under this subdivision shall be made to the Police Department of the City.
- (7) Further, all dog owners, whether or not their dog is licensed as a vicious dog, receiving notice or having knowledge that their dog has bitten or attacked a human being or domestic animal without provocation shall immediately notify the Police Department of the City of Washington of said incident.
- (I) Sign required: All person possessing a vicious dog shall display in a prominent place on the premises where a vicious dog is to be kept a sign which is readable by the public from a distance of not less than one hundred (100) feet using the words "Beware of Dog." A similar sign shall be posted on any confinement structure.
- (J) Fighting prohibited: No person shall fight or bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any dog. No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack human beings or domestic animals without provocation.
- (K) Revocation of license: A license granted pursuant to this chapter shall be automatically revoked upon the second violation by the licensee of any provision of this chapter. In the event of a revocation of the license, the license fee shall be retained by the City of Washington and the vicious dog must be removed from the city within forty eight (48) hours.
- (L) Exceptions: This chapter shall not apply to any K-9 Patrol Dogs or Police Dogs as defined herein.
- (M) Failure to comply: It shall be unlawful for the owner, keeper or harbinger of a vicious dog registered with the City of Washington to fail to comply with the requirements and conditions set forth in this chapter. Any vicious dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the revocation of the license of such animal resulting in the immediate removal of the animal from the City of Washington.

(Ord. 1919, passed 6-5-95)

Penalty, see § 91.99