



OFFICE OF THE CITY ATTORNEY/CITY PROSECUTOR

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CITY ATTORNEY/CITY PROSECUTOR'S DEPARTMENT

DATE: July 15, 2024

SUBJECT: EXISTING WARNING SIGN PROVISION IN ORDINANCE AMENDING TITLE 6, CHAPTER 6.18 OF THE PASADENA MUNICIPAL CODE ESTABLISHING A HEARING OFFICER FORM OF ADJUDICATION FOR VICIOUS, POTENTIALLY DANGEROUS, AND PUBLIC NUISANCE DOG HEARINGS

On May 20, the City Council directed the City Attorney to prepare an ordinance amending Title 6, Chapter 6.18 of the Pasadena Municipal Code "to establish a hearing officer form of adjudication for public nuisance animal hearings to conform to best practices and update related penalties and definitions..."

On July 8, the City Council conducted first reading of this ordinance. The ordinance included provisions updating definitions for public nuisance, potentially dangerous, and vicious dogs, and shifted responsibility for hearings from the Code Enforcement Commission and its panels, to hearing officers. During City Council's consideration of the ordinance on first reading, there was a question regarding the language about posting a warning sign in Section 6.18.020, subdivision (E), which defines a public nuisance dog as a dog who:

"When unprovoked, approaches any person and attempts to attack upon private or public property, except inside an owner's home or fenced rear yard to which all gates or other places of general ingress or egress to the fenced area are each posted with a warning sign stating that a dog is on the premises. The letters on said sign shall be at least 1 inch in height and said sign shall be visible within 10 feet of the entrances to the fenced area..."

There was a question from the City Council regarding whether the reference to warning signs was new language, and if the public should be alerted to it. It was also asked

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whether a dog owner is required to post warning signs, and whether the dog owner could be liable under our Municipal Code if their dog were to bite a trespasser if, at the time, the property did not have the referenced signage.

Addressing the first two questions, the language is not new. The language was added in 1988. The 1988 ordinance enhanced the poundmaster's ability to regulate dangerous dogs which are public nuisances. In 1998, 10 years later, Section 6.18.020 was amended to improve enforcement of the City's Public Nuisance Dog Ordinance. The language regarding signage quoted above was left intact, as it remains today.

Section 6.18.020 does not require dog owners to post warning signs on their properties. Moreover, the language in Section 6.18.020, subdivision (l) plainly states:

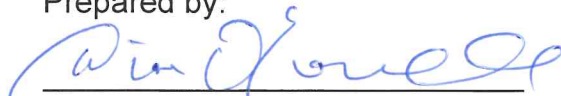
"Notwithstanding the definitions above, no dog may be declared a public nuisance dog ... if..[a]n injury or damage is sustained by a person ... who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises..."

Thus, under the Municipal Code, if a dog were to bite an intruder at a residence where no warning sign is posted, the dangerous dog administrative hearing process would *not* apply. With that said, the language is worthy of thorough review following the City Council's adoption of the ordinance proposed herein. The Public Health Department intends to complete a comprehensive review of Title 6 to assess the need for updates, which will include review of the sign-posting requirements. While the amendments in the proposed Ordinance focus on moving to a hearing officer model of adjudication, staff's next review will seek to clarify and update other aspects of Title 6 of the Municipal Code to conform it to best practices for administering animal services matters.

Respectfully submitted,


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