

Agenda Report

May 20, 2024

TO: Honorable Mayor and City Council

THROUGH: Public Safety Committee (May 15, 2024)

FROM: Public Health Department

SUBJECT: PROPOSED MUNICIPAL CODE AMENDMENTS TO ESTABLISH A HEARING OFFICER FORM OF ADJUDICATION FOR PUBLIC NUISANCE ANIMAL HEARINGS TO CONFORM TO BEST PRACTICES AND UPDATE RELATED PENALTIES AND DEFINITIONS

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is not a project subject to the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and Sections 15060(c)(2), 15060(c)(3), and 15378 of the State CEQA Guidelines and, as such, no environmental document pursuant to CEQA is required; and
2. Direct the City Attorney to prepare an ordinance within 60 days amending Title 6 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, as outlined in this report.

BACKGROUND:

California Food and Agricultural Code Section 31601, et seq. ("Section 31601") establishes enforcement measures for dangerous dogs and authorizes cities to adopt and enforce their own programs for the control of potentially dangerous or vicious dogs. Section 31601 also authorizes cities to establish their own quasi-judicial procedures to hear complaints or pursue remedies through superior court as a limited civil case.

In quasi-judicial hearings, the decision maker must follow carefully laid out procedures to ensure hearings are fair and that decisions are impartial. Quasi-judicial hearings are subject to federal and state due process, the fair hearing requirement of Code of Civil Procedure section 1094.5, and additional requirements applicable to particular hearings.

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The most fundamental requirements of procedural due process are: (1) adequate notice; and (2) an opportunity to be heard before a fair and impartial hearing decision maker.

The Code Enforcement Commission (“Commission”) currently conducts all hearings on code enforcement matters including those related to public nuisance animals or vicious dogs. The Commission interprets Pasadena Municipal Code (“PMC”) Title 6 to render a decision based on the evidence presented at the hearing. The Commission consists of nine members composed of one appointee by the mayor and each councilmember with the final member being a person recommended by the seven councilmembers. The Commission divides itself into rotating panels of three members to conduct hearings. Any appeal of determinations made by a three-member panel are heard by the full commission.

A review of adjudication procedures for animal matters in use by eight other cities indicates the current quasi-judicial process used by the City of Pasadena is an outlier. Seven of the eight cities reviewed use a hearing officer model, with some allowing hearings to be conducted remotely using technology. The hearing officer model offers several benefits including the ability to efficiently satisfy due process requirements, especially if the hearing officer has sufficient training or guidance as to matters of law or animal control. Additional advantages of the hearing office model are a level of formality and expertise that can include understanding rules of evidence, weighing conflicting testimony, consideration of the qualifications and recommendations of experts, and making appropriate findings of fact that support an appropriate ruling. Only one city in the review opted for a model other than a hearing officer, relying instead on the Los Angeles Superior Court, which is even more formal than a hearing officer. For the reasons stated, staff recommends directing the City Attorney to prepare an ordinance amending Title 6 of the PMC establishing a hearing officer form of adjudication for public nuisance animals.

Staff also recommends updating penalties to include administrative fines to supplement criminal penalties already authorized in the PMC. In addition, definitions in the Code should be updated to conform to state law, including revisions to the definition of public nuisance animal and vicious dog, and to include definitions for “potentially dangerous dog”, “severe injury”, “unprovoked”, and “hearing officer”.

COUNCIL POLICY CONSIDERATION:

The proposed action is consistent with the City Council’s strategic planning goal to ensure public safety by efficiently adjudicating public nuisance or vicious animal concerns while adhering due process requirements.

ENVIRONMENTAL ANALYSIS:

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA

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Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The proposed municipal code amendments to establish a hearing officer form of adjudication for public nuisance animal hearings is an organizational and administrative action that would not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Therefore, the proposed action is not a "project" subject to CEQA, as defined in Section 21065 of CEQA and Section 15378 of the State CEQA Guidelines. Since the action is not a project subject to CEQA, no environmental document is required.

FISCAL IMPACT:

Staff estimates the cost of using a hearing officer for all animal related hearings to cost up to \$10,000 per fiscal year. The current cost of conducting public nuisance animal hearings is supported by the Planning & Community Development Department. If the recommended actions are approved, staff will return with recommended funding sources to support the activities required by the proposed PMC amendments.

Respectfully submitted,



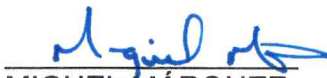
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