



ADDENDUM 2

BLOOMINGTON CITY COUNCIL AGENDA

MAY 28, 2013

Memorandum Correction

- Item 7B. Text Amendment to Chapter 8. Animals and Fowls, Identification and Regulation of Vicious and Dangerous Dogs. (Recommend that the Ordinance be passed.)
(Corrected Memorandum and Ordinance).



FOR COUNCIL: May 28, 2013

SUBJECT: Text Amendment to Chapter 8, Draft 2. Incorporating some changes suggested by Wishbone Animal Rescue.

RECOMMENDATION/MOTION: That the Ordinance be passed.

STRATEGIC PLAN LINK: Goal 3: Strong Neighborhoods; Objective A: Residents feeling safe in their homes and neighborhoods.

STRATEGIC PLAN SIGNIFICANCE: Proposed ordinance amendments encourage responsible pet ownership and enhance staff's ability to properly identify potentially problem animals, provide safe and equitable restrictions on declared animals, and penalize irresponsible pet owners.

BACKGROUND: At the Council meeting on May 13, 2013, Council voted to delay consideration of a proposed ordinance amending Chapter 8 of the Bloomington City Code as it relates to dangerous and vicious dogs. Since the Council meeting, staff has reached out to Wishbone Animal Rescue and the McLean County Humane Society for their input regarding the proposed ordinance. A meeting was held with the Mayor, Alderman Stearns, Alderman Lower, City staff and representatives from Wishbone Animal Rescue. Also present at the meeting was Dr. Thomas Anderson, a veterinarian and board member of the McLean County Humane Society. The draft ordinance accompanying this memorandum incorporates some of the suggested changes to the ordinance made at that meeting. This amended ordinance differs from the May 13th draft in the following respects:

- Language is added to Section 50(c)(3) and 50(k)(4). Those sections had previously provided that any dog that has been found to be a dangerous or vicious dog in any other jurisdiction shall be considered as a dangerous or vicious dog in the City of Bloomington. The added language exempts dogs that are found dangerous or vicious in other jurisdictions solely because of their breed.
- Section 83(e) has been changed to provide that in the event the appeal of a declaration that a dog is subject to euthanasia is denied, the dog shall be euthanized no sooner than 5 days after denial of the appeal. This clarifies and slightly expands the time within which a dog owner who loses such an appeal may seek redress in the courts.
- Section 83(d)(9) has been changed so that the amount of liability insurance required to be purchased by the owner of a vicious dog from \$200,000 to \$250,000.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED:

FINANCIAL IMPACT:

Respectfully submitted for Council consideration.

Prepared by: (name, title)

Reviewed by: (name, title)

Financial & Budgetary review by: (finance fill in once reviewed – name, title)

Legal review by: (legal fill in once reviewed – name, title)

Recommended by:

David A. Hales
City Manager

Attachments: Attachment 1.

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Black				Alderman Mwilambwe			
Alderman Fazzini				Alderman Sage			
Alderman Fruin				Alderman Schmidt			
Alderman Lower				Alderman Stearns			
Alderman McDade							
				Mayor Renner			

ORDINANCE NO. 2013-

AN ORDINANCE AMENDING BLOOMINGTON
CITY CODE CHAPTER 8

BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Bloomington City Code Chapter 8, Sections 50, 53, 54 and 83 shall be and the same are hereby amended to read as follows: (additions are indicated by underlining; deletions are indicated by strikeouts):

SEC. 50 DEFINITIONS.

(a) ~~Bitten~~: "Bitten" means seized with the teeth or jaws so that the person or thing seized has been nipped or gripped or has been wounded or pierced, and includes contact of saliva with any break or abrasion of skin.

(b) ~~Cat~~: "Cat" includes all animals, male and female, of the feline species.

(c) "Dangerous Dog" means:

1. Any dog that behaves in a manner that a reasonable person would believe poses a serious and unjustified threat of physical injury or harm to a person or a companion animal; or
2. Any dog that without justification bites a person or other animal, whether on public or private property, that does not cause injury; or
3. Any dog that has been declared a dangerous dog by any other jurisdiction provided that such finding was not based solely upon the breed of the dog.
4. No dog shall be deemed a dangerous dog if it bites, attacks or menaces a trespasser on the property of its owner, or harms or menaces anyone who has tormented or abused it, or is performing in the line of duty as a professionally trained dog for law enforcement.

(~~e~~) (d) ~~Dog~~: "Dog" includes all animals, male and female, of the canine species.

(e) "Dog subject to euthanasia" means:

1. Any dog which has killed or severely injured any person or dog; or
2. Any dog which has rabies; or
3. Any dog previously declared a vicious dog which subsequently bites a person or animal causing injury to that person or animal; or
4. Any dog previously declared a vicious dog, which, when unmuzzled, in an aggressive or terrorizing manner approaches any person in an apparent

attitude of attack on any street, sidewalk, public or private property other than the property of the owner of the dog; or

5. Any dog previously declared a vicious dog which subsequently is found running at large; or
6. Any dog previously declared a vicious dog which is not kept in the manner required for keepers of vicious dogs.
7. Any dog previously declared a vicious dog which is found without current registration or vaccinations.

(f) “Enclosure” means a fence or structure capable of preventing the animal from escaping at any time. It shall be securely locked at all times. If the enclosure is a room within a residence, it shall not have direct access to common areas of the building or to outdoors, unless it leads directly to an outdoor enclosure, capable of preventing the animal from escaping that is securely locked. An owner or keeper of a vicious dog must have a secure fenced enclosure in which to exercise the dog.

(g) “Impounded” means taken into the custody of the Animal Control Center where City of Bloomington personnel have authority to take animals.

(h) “Injury” means any wound serious enough to require medical or veterinary treatment, regardless of whether medical or veterinary treatment is actually sought, obtained or provided.

~~(d)~~ (i) ~~Owner.~~ "Owner" means any person or persons, firm, limited liability company or corporation keeping, possessing or harboring a dog or cat or having it in their care or acting as its custodian or permitting a dog or cat to remain on or about any premises occupied by such person(s). In the event that the owner, harbinger, or keeper of any dog or cat is a minor, the parent or guardian of such minor shall be responsible ~~to ensure~~ for ensuring that all provisions of this Ordinance are complied with and it shall be illegal for such parent or guardian to fail to prohibit any violation of this Code by a minor.

~~(e)~~ (j) ~~Running at Large.~~ "Running at Large" means being off the premises of the owner and not under restraint or not under physical control of the owner or an authorized person either by leash, cord or chain. Control referred to as voice control is not physical control when off the premises of the owner.

(k) “Vicious Dog” means:

1. Any dog that when unprovoked bites or attacks a human being or other animal on either public or private property; or
2. Any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

3. Any dog which has been found to be a dangerous dog on three separate occasions in this or any other jurisdiction provided that such finding was not based solely upon the breed of the dog; or
4. Any dog that has been found to be a vicious dog in any other jurisdiction.
5. No dog shall be deemed a vicious dog if it bites, attacks or menaces a trespasser on the property of its owner, or harms or menaces anyone who has tormented or abused it, or is performing in the line of duty as a professionally trained dog for law enforcement.

SEC. 53 RECLAMATION OF IMPOUNDED ANIMAL.

(a) Any impounded dog or cat may be reclaimed by:

- (1) payment of a City of Bloomington release fee of \$50.00 ~~30.00~~; and
- (2) signing an acknowledgment of ownership of the animal; and
- (3) complying with all applicable rules and regulations and by paying all charges and fees pertaining to the impoundment and care of the animal imposed by McLean County Animal Control. ~~complying with all applicable rules, regulations and fees of any involved animal shelter.~~

~~(b) If any dog or cat is impounded a second or subsequent time, the owner shall be charged with the offense which caused the impounding in addition to paying any fees referred to herein.~~

(b) ~~(e)~~ Any impounded dog or cat which has been placed in the McLean County Animal Control Shelter by a representative of the City of Bloomington shall be subject to all of the rules, regulations and fees that apply to other similar types of animals that are in or may be placed in the Shelter.

SEC. 54 ANIMALS NOT RECLAIMED.

(a) With the exception of animals impounded for a 10-day quarantine period as provided in sub-section (b) of this Section, any animal not reclaimed within 7 business days of impoundment shall become the property of McLean County Animal Control;

(b) For animals subject to a 10-day quarantine period, any animal not reclaimed within 5 business days from the date the quarantine ends shall become the property of McLean County Animal Control.

SEC. 83 DANGEROUS AND VICIOUS DOGS; DOGS SUBJECT TO EUTHANASIA.

(a) Procedures for Declaring a dog dangerous, vicious or subject to euthanasia:

1. Any person may file a complaint with the Police Department seeking to have a dog declared dangerous, vicious or subject to euthanasia. The

Police Chief or his or her designee shall review and investigate the complaint and, if the criteria for declaring a dog dangerous, vicious or subject to euthanasia have been met, shall make the appropriate declaration and provide written notification of the declaration to the owner of the dog. Said notification shall include the basis for the declaration, the declaration, any restrictions placed on keeping the animal, and notice of the right to appeal the declaration.

2. An owner of a dog declared dangerous, vicious or subject to euthanasia shall have the right to appeal the declaration, provided that the owner files a written request to appeal said declaration with the Bloomington Police Department no later than seven days after receiving notification. If no written request for appeal is made in the time provided, the owner of the dog subject to the declaration shall have 14 days from the date of notification within which to comply with all requirements pertaining to the declaration. If a written request for an appeal is timely made, a hearing shall be held on the appeal in an expeditious manner, no later than 30 days from the date the owner requests an appeal.
3. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and may cross-examine witnesses. The hearing shall be held before an Assistant Police Chief or other hearing officer duly authorized by the Chief of Police. In making a determination on any appeal of a declaration, the hearing officer shall consider the criteria and definitions set forth in Section 50 of this Chapter. The hearing officer may also consider the following:
 - (i) the circumstances of the incident or incidents giving rise to the declaration;
 - (ii) the nature and extent of any injury caused to humans or animals as the result of the incident or incidents giving rise to the declaration;
 - (iii) the size of the dog subject to the declaration;
 - (iv) whether the dog subject to declaration was current on its registration and vaccinations at the time of the most recent incident forming the basis for the declaration;
 - (v) any previous history of the dog subject to the declaration involving incidents of threat, attack or injury to human beings or other animals;
 - (vi) the history of the owner of the dog subject to the declaration, including prior incidents involving animals owned or kept by the owner, whether said animals have been current on their registrations and vaccines, and the conditions under which they have been kept.

~~(a) — Definitions.~~

~~(1) — Vicious dog means:~~

- ~~(a) — Any individual dog that when unprovoked, inflicts, bites or attacks a human being or other animal either on public or private property.~~
- ~~(b) — Any dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.~~
- ~~(c) — Any dog which has been found to be a "dangerous dog" upon three (3) separate occasions.~~
- ~~(d) — No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is performing in the line of duty as a professionally trained dog for law enforcement or professional guard duties.~~

~~(2) — Dangerous dog means any dog which when either unmuzzled, unleashed, unattended or otherwise unrestrained or leashed but uncontrolled by its owner or a member of the owner's family, in an aggressive or terrorizing manner approaches any person in a menacing fashion or in an apparent attitude of attack upon streets, sidewalks, or any public property or places.~~

~~(3) — Enclosure means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of a vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall prevent the animal from escaping from the enclosure in any manner.~~

~~(4) — Impounded means taken into the custody of the public pound where the City of Bloomington personnel has authority to take animals.~~

(b) Disposition of Appeals.

1. The hearing officer shall inform the owner in writing of the disposition of any appeal within 5 days of the date of the hearing. If the appeal is denied and the declaration upheld, the owner shall have 14 days from receipt of the written notification of the disposition of appeal within which to comply with all requirements pertaining to the declaration.
2. Appeal of the determination of the hearing officer shall be as provided by the Illinois Administrative Procedures Act.

(c) Requirements for Keeping Dogs Declared Dangerous.

1. Any person owning or keeping a dog declared dangerous must be in compliance with the requirements of this Section within 14 days of the receipt of notification of the declaration or within 14 days of the receipt of a decision of an appeal upholding the dangerous dog declaration. Failure to comply with this Section may also result in fines, fees and court costs being assessed against the owner. Each failure to comply with a provision of this Section shall constitute a separate offense. Each day an owner fails to comply with a provision of this Section shall constitute a separate offense.
2. It is illegal for any person to create a public nuisance by permitting any dangerous dog to be kept on the owner's property in violation of Section 81(a) of this Chapter. Guide dogs for blind or hearing impaired persons, support dogs for the physically handicapped and professional guard or police owned dogs are exempt from the provisions of this Section, provided an attack or injury to a person occurs while the dog is performing duties as expected.
3. Any dog declared dangerous shall be spayed or neutered.
4. Any dog declared dangerous shall be micro-chipped and registered with the micro-chip company in the owner's name with a current address where the dog is located.
5. The owner of a dog declared dangerous shall purchase a "Dangerous Dog Tag" from McLean County Animal Control. The tag must be affixed to the dog's collar in a manner so that it can be seen. Said tag shall be worn by the dog at all times. Registration for the dangerous dog tag must be renewed annually at McLean County Animal Control.
6. The owner of a dangerous dog shall be required to immediately report any biting incidents involving the dog and a person or animal to the Bloomington Police Department or to McLean County Animal Control.
7. The owner of a dog declared dangerous shall notify the United States Postal Service local office and all utility providers in writing of the dangerous dog declaration within 14 days of receiving the declaration. The dog owner shall provide proof of said notification to the Bloomington Police Department.
8. If the owner of a dog declared dangerous resides at rental property, said owner shall notify the landlord or property management of the dangerous dog declaration within 14 days of receiving said declaration. The dog owner shall provide proof of said notification to the Bloomington Police Department.
9. The owner of any dog declared dangerous shall immediately notify the Bloomington Police Department of any change of address or location of

the dangerous dog. If the dog is removed from the City of Bloomington, said notification shall also be provided in writing to authorities of the jurisdiction where the dog is located.

(d) Requirements for Keeping Dogs Declared Vicious.

1. Any person owning or keeping a dog declared vicious must be in compliance with the requirements of this Section within 14 days of receipt of notification of the declaration or within 14 days of the receipt of a decision of an appeal upholding the vicious dog declaration. Any failure to comply with the requirements of this Section pertaining to the keeping of dog declared vicious shall result in the impoundment of the dog and the dog being subject to euthanasia. Failure to comply with this Section may also result in fines, fees and court costs being assessed against the owner. Each failure to comply with a provision of this Section shall constitute a separate offense. Each day an owner fails to comply with a provision of this Section shall constitute a separate offense.

2. It shall be illegal for an owner or keeper of a vicious dog to sell, foster or give away the dog.

3. The owner of a dog declared vicious shall contact the Bloomington Police Department within 14 days of receipt of the declaration, or within 14 days of the receipt of a decision of an appeal upholding the vicious dog declaration, and arrange for an inspection of the premises where the dog subject to said declaration is kept. It shall be illegal for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure, as defined in Section 50 of this Chapter approved by the Bloomington Police Department. The only times that a vicious dog may be allowed out of the enclosure are:

(i) if it is necessary for the owner or keeper to obtain veterinary care for the vicious dog; or

(ii) to comply with the order of a court of competent jurisdiction.

When taken out of the enclosure, said vicious dog must be securely muzzled and restrained with a chain having a tensile strength of at least 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.

Any dog which has been found to be a vicious dog and which is not confined in an enclosure shall be impounded and shall be subject to euthanasia.

4. The owner of a vicious dog shall notify the United States Post Office and utility providers in writing of the vicious dog declaration or the disposition

of any appeal of said declaration. The owner shall provide proof of the notification to the Bloomington Police Department.

5. If the owner of a dog declared vicious resides at rental property, said owner shall notify the landlord or property management of the vicious dog declaration within 14 days of receiving said declaration. The dog owner shall provide proof of said notification to the Bloomington Police Department.
6. The owner of a vicious dog shall have said dog spayed or neutered.
7. The owner of any dog declared vicious shall have said dog micro-chipped and registered with the micro-chip company in the owner's name and listing an address where the dog is currently located.
8. The owner of a dog declared vicious shall purchase a "Vicious Dog Tag" from McLean County Animal Control. Said tag shall be affixed to the dog's collar and visible at all times. Registration for the vicious dog tag must be renewed annually at McLean County Animal Control.
9. The owner of a dog that has been declared vicious shall be required to purchase general liability insurance covering property and bodily injury with a combined single limit of at least \$250,000 per occurrence and shall show proof of obtaining said insurance to the Bloomington Police Department. The owner shall notify the Bloomington Police Department not more than 14 days after the cancellation of said insurance policy.
10. The owner of any dog declared vicious shall immediately report to the Bloomington Police Department any incident involving the vicious dog and any bite, attack or threat to a person or animal.
11. The owner of any dog declared vicious shall immediately notify the Bloomington Police Department of any change of address or location of the vicious dog. If the dog is removed from the City of Bloomington, said notification shall also be provided in writing to authorities of the jurisdiction where the dog is located.

(e) Dogs Subject to Euthanasia. It shall be the duty of the owner of any dog declared Subject to Euthanasia by the Police Chief or his designee to immediately take the dog to an impound facility or veterinarian who shall euthanize said dog or, in the event of an appeal, shall hold such animal pending a hearing of an appeal before the Police Chief or his designee. If the appeal is denied and the declaration upheld, the animal shall be euthanized in a humane manner no sooner than 5 days after the decision denying the appeal, unless the owner consents to an earlier time. It shall be unlawful for the owner of a dog declared subject to euthanasia to sell, foster, give away or remove said dog from the jurisdiction. In the event that an owner does not deliver a dog subject to euthanasia to an impound facility or veterinarian, the City may seek a warrant from the Circuit Court of McLean County for the immediate seizure and euthanasia of the dog. The owner or keeper of a dog subject to euthanasia must provide to the Bloomington Police Department a letter or other proof signed by a licensed veterinarian that the dog has been

euthanized within seven days of the declaration that the dog is subject to euthanasia. Each day upon which the owner or keeper of a dog subject to euthanasia fails to provide the notice of euthanasia shall be considered a separate violation of this Ordinance.

(f) Duty to Report Dangerous or Vicious Dogs Brought into the City. Any person keeping a dog which has been declared dangerous or vicious in another jurisdiction shall report that fact to the Bloomington Police Department within 3 days of bringing the dog into the City of Bloomington. All dogs declared dangerous or vicious in another jurisdiction shall be kept in a manner as if declared dangerous or vicious in the City of Bloomington. The Bloomington Police Department shall keep records of all such dogs. The status of a dog declared dangerous or vicious in another jurisdiction shall not be subject to appeal. It shall be unlawful to fail to report a dangerous or vicious dog within three days of bringing the dog into the City of Bloomington.

~~(b) It shall be illegal for any person to keep or maintain any dog which has been found to be a vicious dog unless such dog is at all times kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are:~~

~~(1) — if it is necessary for the owner or keeper to obtain veterinary care for the vicious dog; or~~

~~(2) — to comply with the order of a court of competent jurisdiction.~~

~~When taken out of the enclosure, said vicious dog must be securely muzzled and restrained with a chain having a tensile strength of at least 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.~~

~~Any dog which has been found to be a vicious dog and which is not confined in an enclosure shall be impounded by the law enforcement authority having jurisdiction in such area and shall be turned over to a licensed veterinarian for destruction by lethal injection.~~

~~It shall be illegal for any owner or keeper of a vicious dog to sell or give away any vicious dog.~~

~~(c) — It is illegal for any person to create a public nuisance by permitting any dangerous dog to be kept on the owner's property in violation of Section 81(a). Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and professional guard or police-owned dogs are exempt from this Section, provided an attack or injury to a person occurs while the dog is performing duties as expected.~~

~~(g) (d) The owner of all professional guard dogs shall register their animals with the Chief of Police. It shall be the duty of the owner of each such dog to notify the Chief of Police of changes of address and the owner shall keep the Chief of Police advised of the location where such dog will be stationed. The Chief of Police shall provide the Police and Fire Departments with a list of such exempted dogs and shall promptly notify such departments of any changes reported to him.~~

~~(h) (e) The State's Attorney, Police or any citizen may file a complaint to enjoin any person from maintaining, permitting or having a dangerous or vicious dog or nuisance dog or animal and/or to abate the same, and/or to enjoin the owner of such dog or other animal from permitting the same to leave his premises when not under control by leash or other legal control~~

method. Upon the filing of a complaint in the Circuit Court, the Court, if satisfied that evidence for an injunction may exist, shall grant a preliminary injunction with bond in such amount as the Court may determine to be appropriate, enjoining the defendant from maintaining, permitting or having such nuisance. If the existence of evidence in support of an injunction is established, the Court shall enter an appropriate order and may assess a fine and/or may order that such dog or other animal be humanely destroyed by lethal injection.

~~(f) — When a dog has been declared to be dangerous or vicious dog by the Police Department, the owner has the right to an appeal process. These appeals shall first be heard by the Chief of Police or his authorized representative and then by the Courts pursuant to the Administrative Review Act of the State of Illinois.~~

(i) ~~(g)~~ Any person who violates this Ordinance shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense. Each day that an offense continues shall be considered a separate violation.

(j) Owners of dogs declared dangerous or vicious prior to the enactment of this Ordinance shall have 90 days from its enactment to comply with its provisions.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect immediately upon passage and approval.

PASSED this ___ day of _____, 2013.

APPROVED this _____ day of _____, 2013.

APPROVED:

STEPHEN F. STOCKTON
Mayor

ATTEST:

TRACEY COVERT
City Clerk