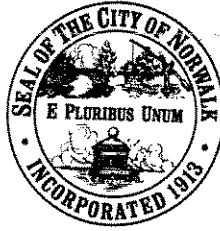


CITY OF NORWALK

CITY HALL
125 EAST AVENUE, P.O. BOX 5125
NORWALK, CONNECTICUT 06856-5125

LAW DEPARTMENT



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COMMON COUNCIL ORDINANCE COMMITTEE

REGULAR MEETING

May 17, 2016
7:00 p.m. – Room 231
Norwalk City Hall-125 East Avenue
Norwalk, CT

AGENDA

1. ROLL CALL
2. PUBLIC HEARING (possible action on):
3. PUBLIC HEARING DISCUSSION
4. PUBLIC COMMENT
5. ACCEPTANCE OF MINUTES: April 19, 2016
6. OLD BUSINESS (possible action on): Extra Police Work
7. NEW BUSINESS: (possible action on): Chapter 15-Animals and Fowl
8. ADJOURNMENT

**CITY OF NORWALK
ORDINANCE COMMITTEE
PUBLIC HEARING
AND
REGULAR MEETING
APRIL 19, 2016**

ATTENDANCE: Eloisa Melendez, Chair; Michael Corsello; Douglas Hempstead;
Bruce Kimmel; Thomas Livingston; Travis Simms

STAFF: Attorney Brian McCann

ROLL CALL

Ms. Melendez called the meeting to order at 7:07 p.m. and called the Roll.

PUBLIC HEARING

Commercial Parking

Ms. Melendez opened the public hearing at 7:08 p.m. and asked three times if anyone wished to speak. Hearing no one, she closed the public hearing at 7:08 p.m.

Alarm Ordinance

Ms. Melendez opened the public hearing at 7:08 p.m. and asked three times if anyone wished to speak. Hearing no one, she closed the public hearing at 7:08 p.m.

PUBLIC HEARING DISCUSSION

There was no discussion this evening.

PUBLIC COMMENT

There were no members of the public present this evening who wished to comment.

**** MR. LIVINGSTON MOVED TO SEND THE FOLLOWING ITEMS TO
THE FULL COMMON COUNCIL:**

**COMMERCIAL PARKING
ALARM ORDINANCE**

**** MOTION PASSED UNANIMOUSLY**

ACCEPTANCE OF MINUTES

March 15, 2016

The following corrections were made to the minutes of March 15, 2016:

Correct the spelling: Shannon O'Toole Giandurco and Attorney Brian McCann

**** MR. CORSELLO MOVED TO APPROVE THE MINUTES AS CORRECTED**

**** MOTION PASSED UNANIMOUSLY**

OLD BUSINESS

Extra Police Work

Police Sgt. David Orr said that he was here to discuss the proposed Ordinance, specifically traffic control. He distributed a spreadsheet showing the breakdown of a cases.

Sgt. Orr said that they want the right of first refusal. Mr. Kimmel asked what kind of job would Police Officers refuse. Sgt. Orr said that the right of first refusal pertains to them getting the first shot at each job. He said that there could potentially be jobs that they could staff or the job comes in at the last minute.

Mr. Corsello said that a common call he gets is when residents see a Police Officer on a call and traffic is tied up. Sgt. Orr said that the Union gets the most complaints about excessive use of cell phones. He said that is just snapshot, but if an officer is found to be using their cell phone excessively, disciplinary action will be taken. He noted that given the volume of jobs they do, the violations are the exception. Sgt. Orr asked Mr. Corsello to contact him if there are any complaints.

A discussion took place about the accountability of Flagmen and Sgt. Orr said that they do not have any authority over traffic. Mr. Livingston asked if the hourly rate covers all of the costs to hire an Officer. Sgt. Orr said that it does. In 2012 the Union posed that question to the City and in doing that felt that they were pricing them out of work. The City showed them that the cost of the extra duty program was so much that it necessitated and increase to 15% more.

Sgt. Orr said that there is a problem with collections from contractors and nightclubs. Mr. Corsello suggested creating an Ordinance, that if someone does not pay, they will not be permitted to hire extra duty Police Officers. Attorney McCann said that each department is responsible for their own debt collection, but there is no one at the Police

Ordinance Committee

April 19, 2016

Page 2

Department who is responsible for collections. Mr. Hempstead said that they could pull the bar license of in the case of a contractor, not issue road encroachment permits.

Mr. Hempstead asked if a Supervisor has the ability to discipline an extra duty Officer if he sees them doing something wrong. Sgt. Orr said that the supervisor can suspend the extra duty Officer on the spot.

Mr. Hempstead asked what would happen if an extra duty Officer was not available and one was needed. Sgt. Orr said that the Police Chief could order someone to go to that site. He noted that companies notify them in advance.

Mr. Corsello asked if there is a prohibition from requiring only Police Officers rather than Flagmen. Attorney McCann said that Darien and New Canaan has language that requires Police Officers; however, Flagmen may alternately be employed.

Mr. Kimmel asked how many Flagmen are used. Sgt. Orr said that less than 10% are used. In response to Mr. Kimmel's question, Sgt. Orr said that there is diminished public safety when Flagmen are used.

Sgt. Orr said that the Ordinance they are looking for codifies the existing practices.

Mr. Corsello said that there has to be a way to collect unpaid fees. Mr. Kimmel said that they can't jeopardize public safety. Mr. Livingston said that it sounds like a collection problem and they need to understand how that process works.

Sgt. Orr said that in the last contract negotiations, they came to an understanding that allows the Chief of Police or his designee to shut down a job for lack of sufficient traffic control and they were required to notify Public Works. He said that they developed a good relationship with Public Works supervisors.

Attorney McCann said that he was concerned that if they drafted an Ordinance with blank prohibition against Flagmen, he would want language in that to be tied to public safety. Sgt. Orr noted that there is a lot of development going on in Norwalk. He said that if work is being done on a side street, and there is no traffic, then there would not be a need for an extra Duty Officer.

Mr. Kimmel asked Attorney McCann to come up with language. He said that he wants the best available coverage

Mr. Hempstead suggested inviting the Police Chief and Public Works Director to come together to create bullet points. Mr. Corsello asked to get something from Law Department or Finance to figure out how to fix the collection problem. Attorney McCann suggested having the contractor put up a bond or surety to cover costs. Mr. Kimmel said that his concern is to make public safety a standard.

NEW BUSINESS

Chapter 77 – Peddlers, Street Vendors and Solicitors

Ms. Melendez explained that this matter falls under the responsibility of the Health, Welfare and Public Safety Committee.

- ** MS. MELENDEZ MOVED TO SEND THIS ITEM TO THE HEALTH, WELFARE AND PUBLIC SAFETY COMMITTEE FOR DISCUSSION**
- ** MOTION PASSED UNANIMOUSLY**

ADJOURNMENT

- ** MR. HEMPSTEAD MOVED TO ADJOURN**
- ** MOTION PASSED UNANIMOUSLY**

There was no further business and the meeting was unanimously adjourned at 8:20 p.m.

Respectfully submitted,

Rosemarie Lombardi
Telesco Secretarial Services

CHAPTER 96. EXCAVATIONS AND ENCROACHMENTS IN PUBLIC STREETS AND GROUNDS

SECTION 96-14. PROTECTIVE MEASURES

A.

It shall be the duty of the permittee under this chapter to safeguard the security of the general public, to protect the public from injury or harm, to ensure that their rights are not unreasonably curtailed and to place and maintain adequate and proper barriers, warning devices, traffic cones and signs necessary for the safety of the general public. Additional barriers, warning devices, traffic cones and signs shall be placed and maintained by the permittee at the locations and in the amounts ordered by the Director. Barriers, devices, lights, signs and similar devices shall conform to City and State of Connecticut requirements. From sunset to sunrise an adequate number of amber flashing lights and reflective barricades shall be used. All such barriers, lights, signs and devices shall be supplied by the permittee at his own expense. Pedestrians shall be prevented from walking beneath any ladder, staging, scaffolding or like encroachment unless overhead protection is provided.

B.

The permittee shall advise the Director of its plans regarding excavation prior to performing the initial excavation or any subsequent excavation and will cooperate with the Director to ensure that excavation, construction, filling and paving are performed in the least disruptive manner practicable.

C.

Unless specifically stated by the permit, only 1/2 of the traveled way of a street may be excavated or encroached upon at one time, and the same shall be properly restored for the safe passage of vehicular and pedestrian traffic before the remaining half of the traveled way of said street is excavated or encroached upon.

D.

Where an excavation or encroachment involves or affects a public sidewalk, the adjacent street may not be excavated or encroached upon concurrently. Where a sidewalk is excavated, encroached, blocked or impeded by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for pedestrian travel and convenient for users and which shall be barricaded and otherwise protected from vehicular traffic. Where a portion of any street other than the sidewalk is excavated or encroached, the sidewalk must be made safe and passable.

E.

The permittee shall take appropriate measures to assure that, during the performance of the work, traffic and pedestrian conditions can be maintained as near to normal as possible at all times so as to minimize inconvenience to the occupants of adjoining property and to the general public.

F.

When portions of the traveled way are made hazardous for the movement of vehicles or pedestrians, a sufficient number of traffic control persons shall be employed by the permittee to direct traffic safely through the area. The Director shall approve the traffic control plan and shall determine the appropriate number of traffic control persons or Norwalk Police Officers, where necessary, to ensure the public's safety. If such conditions exist at the close of the working day, a watchman Police Officer(s) and a sufficient number of traffic control persons shall be employed and assigned by the permittee to direct traffic at night per the direction of the Director. The work shall be planned to avoid such conditions whenever possible.

G.

The traveled way of any street shall not be closed without prior approval of the Director. The period of time and all other conditions specified in any such approval must be adhered to strictly. The proposed detour route and relevant details must be submitted to and approved by the Director prior to the closing of any street.

H.

Upon failure of the permittee to comply with the requirements of this section or upon failure to immediately make all corrections, changes, alterations or additions ordered by the Director as provided herein for the safety and convenience of the general public, the Director may take such measures as he deems necessary to bring the work or activity into conformance with this section and with his directives, and the cost thereof shall be charged to the permittee.

Chapter 15. Animals and Fowl

Article II. Determination, Regulation and Control of Vicious Dogs

§ 15-12. Purpose.

It is hereby declared that:

A.

Vicious dogs have become a serious and widespread threat to the safety and welfare of the citizens of our community.

B.

Unprovoked attacks by vicious dogs upon persons and animals throughout the country have occurred at an increasing rate.

C.

Many of these attacks have taken place in public places and have been attributable in large degree to the failure of owners to register, confine and properly control their vicious dogs.

D.

Existing laws are inadequate to deal with the threat to public health and safety posed by vicious dogs.

E.

The owning, keeping or harboring of vicious dogs is a nuisance.

§ 15-13. Definitions.

As used in this article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent.

ENCLOSURE

A fence or structure of at least six feet in height and at least five feet by 10 feet, 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 the vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom, shall be designed to prevent the dog from escaping from the enclosure and shall also provide protection from the elements for the dog.

IMPOUNDED

Taken into custody of the municipal dog pound.

KEEPER

Any person or legal entity other than the owner harboring or having in his possession any dog, keeping an interest in or having control or custody of the dog.

OWNER

Any natural person or legal entity, including but not limited to a firm, corporation, organization, partnership or trust, possessing, harboring, having, keeping an interest in or having control or custody of the dog.

VICIOUS DOG

A dog which has been declared vicious by the Board of Police Commissioners, or its designee, in accordance with § 15-14.

§ 15-14. Determination of viciousness.

A.

In the event that the Dog Warden has probable cause to believe that a dog is vicious, the Board of Police Commissioners or its designee shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The Board of Police Commissioners or its designee shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared vicious. The hearing shall be held promptly within no fewer than five nor more than 10 days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public.

B.

The Board of Police Commissioners or its designee may declare a dog to be vicious if any one of the following criteria is met. Any dog:

(1)

Which, when unprovoked, in a vicious or terrorizing manner approaches any person in a menacing fashion or apparent attitude of attack upon the streets, sidewalks or any public grounds or places;

(2)

With a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(3)

Which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property;

(4)

Which is owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;

C.

The Board of Police Commissioners or its designee shall not declare a dog to be vicious based on any of the following criteria:

(1)

If any 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 occupied by the owner or keeper of the dog or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(2)

If an injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, assaulting or invading the premises occupied by the owner or keeper of the dog.

(3)

If the dog was protecting or defending the premises occupied by the owner or keeper of the dog or a human being within the immediate vicinity of the dog from an unjustified attack or assault.

D.

After the hearing, the Board of Police Commissioners or its designee shall notify, in writing, the owner or keeper of the dog of its declaration. If the dog is declared vicious, the Dog Warden shall immediately impound the dog. In the event that the owner or keeper of the dog refuses to surrender the dog to the Dog Warden, the Dog Warden may request a police officer to obtain a search warrant and to seize the dog upon the execution of the warrant.

§ 15-15. Ruling after declaration of viciousness.

After declaring the dog to be vicious, the Board of Police Commissioners or its designee shall make one of two rulings:

A.

~~That the dog be destroyed in an expeditious and humane manner after the expiration of a the fivefourteen-day waiting appeal period, exclusive of Sundays and holidays. In addition, the owner or keeper shall pay a fine of \$99, and such costs and expenses for necessitated by the seizure of the dog including such expenses as may be required for the and destruction of such the dog, or~~

B.

~~That the destruction of the dog will be postponed so long as:~~

~~That the owner or keeper of such a vicious dog shall always shall sign a written statement accepting the ruling of the Board of Police Commissioners and further agreeing to comply with all of the requirements meet the following requirements set forth in subsections (1)-(8) below. The owner or keeper represents and agrees that failure to abide by any of the requirements at any time in the future shall trigger a hearing before the Board of Police Commissioners or its designee for the sole purpose of determining whether or not the conditions were complied with. If the conditions were not complied with, the dog will be destroyed in accordance with section 15-15a.~~

(1)

The vicious dog must be licensed according to the laws of the City of Norwalk and the State of Connecticut.

(2)

The owner or keeper shall present to the Town Clerk proof that the Owner or Keeper has procured liability insurance in the amount of at least ~~\$50,000~~ \$200,000 covering any damage or injury which may be caused by such vicious dog, and produce for the Town Clerk a copy of the policy declaration document identifying the insurance policy and its terms. Notice of any cancellation, termination or expiration of the liability insurance policy must be provided to the Town Clerk and the Board of Police Commissioners within 24 hours of the cancellation, termination or expiration. The owner or keeper shall maintain and not voluntarily cancel the liability insurance unless the owner or keeper shall cease to own or keep the vicious dog. Cancellation of the insurance policy for failure to pay the insurance premium shall be considered a voluntary cancellation, and a violation of this section.

(3)

The owner or keeper shall, at his/her own expense, have the licensing number assigned to such vicious dog tattooed upon such vicious dog by a licensed veterinarian. The number shall be noted in the Town Clerk's file for such vicious dog, if it is different from the licensing number when the vicious dog is registered in subsequent years. The tattoo shall be placed at a location to be determined by the Dog Warden. For the purposes of this § 15-15B(3), "tattoo" shall be defined as any permanent numbering of a vicious dog by means of indelible or permanent ink with the number designated by the licensing authority or any other permanent, acceptable method of tattooing.

(4)

The owner or keeper shall display a sign on his/her premises warning that there is a vicious dog on the premises. Said sign shall be visible and capable of being read from the street, road or highway, whether public or private, which abuts said premises.

(5)

The owner or keeper of a vicious dog shall provide a certificate to the Dog Warden from a licensed veterinarian that the animal has been spayed or neutered, and the owner or keeper of said vicious dog shall be responsible for the cost of such spaying or neutering.

(6)

The owner or keeper shall have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained. All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have an enclosure.

(7)

It shall be unlawful for an Owner or Keeper of a vicious dog to permit the dog to be outside the enclosure unless the dog is securely muzzled and restrained with a chain held by the owner or keeper having a minimum tensile strength of 300 pounds and not exceeding three feet in length and shall be under the direct control and supervision of the owner or keeper of the vicious dog. The muzzle shall be made in such a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting a person or another animal.

(8)

The owner or keeper shall notify the Town Clerk and the Dog Warden within 24 hours if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being or has died or has been sold or given away. If the vicious dog has been sold or given away, the owner or keeper shall also provide the Town Clerk and Dog Warden with the name, address and telephone number of the new owner or keeper of the vicious dog.

C.

The Dog Warden will release the impounded vicious dog back to the owner or keeper only after he/she complies to the satisfaction of the Dog Warden with all the provisions of § 15-15B(1) through (6) inclusive.

§ 15-16. Appeals.

The declaration and ruling of the Board of Police Commissioners or its designee may be appealed to a court of competent jurisdiction by the owner or keeper within ~~48 hours~~ 14 days of receiving the ~~declarations and ruling~~ decision. The vicious dog shall remain impounded pending an appeal. A hearing de novo shall be conducted without a jury, and the decision of the court shall be final and conclusive. The appeal shall be in writing and shall set forth clearly and concisely the reasons for the appeal and shall be served upon the Board of Police Commissioners or its designee in the manner prescribed by law for service of civil process.

§ 15-17. Prohibited activities.

A.

No person shall own or harbor any dog for the purpose of dog fighting nor train, torment, badger or bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.

B.

No person shall possess with intent to sell or offer for sale or breeding or buy or attempt to buy within the City any vicious dog.

C.

No person shall keep a vicious dog within any portion of any multiple-unit dwelling. A "multiple-unit dwelling" shall mean any commercial or residential building consisting of two or more dwelling units. A "dwelling unit" shall mean any room or rooms designed or used as living quarters for one family or household.

§ 15-18. Violations and penalties.

A.

If any vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being or domestic animal, the Dog Warden is empowered to confiscate and, after expiration of a ~~five~~^{fourteen}-day ~~appeal~~ waiting period, ~~exclusive of Sundays and holidays~~, shall destroy said vicious dog. In addition, the owner or keeper shall pay such costs and expenses as may be required for the destruction of such vicious dog. The owner or keeper may file an appeal to the Superior Court in accordance with § 15-16. The penalties set forth herein shall not be lieu of or limit the right of any victim to bring a civil action against the owner or keeper of a vicious dog, as provided for by State statute.

B.

The Dog Warden is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of § 15-15B, inclusive of § 15-15B(1) through ~~(89)~~, § 15-17B and § 15-17C and is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with any of the provisions thereof. The impounded vicious dog shall not be released by the Dog Warden until the owner or keeper complies with all the provisions thereof. Additionally the owner or keeper shall pay a fine of \$99 per day for each violation, plus all such costs and expenses necessitated by the seizure of the vicious dog. In the event that the owner or keeper of the vicious dog refuses to surrender the vicious dog to the Dog Warden, the Dog Warden may request a police officer to obtain a search warrant and to seize the vicious dog upon the execution of the warrant.

C.

Violation of § 15-17A shall allow the Dog Warden to have probable cause that said dog is vicious as per § 15-14A, plus said person shall pay a fine of \$99 for each occurrence.

D.

Responsibility of parents for ensuring compliance. In the event that the owner or keeper of the vicious dog is a minor, the parent or guardian shall be responsible for ensuring compliance with this article.

§ 15-19. Exceptions.

This article shall not apply to:

A.

Kennels licensed in accordance with Title 22, Chapter 435, of the Connecticut General Statutes.

B.

K-9 or other dogs owned by the Police Department or any law enforcement officer which are used in the performance of police work.

§ 15-20. When effective.

This article shall take effect upon passage and compliance with the provisions of the Charter and Code of the City of Norwalk.