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§ 8-1902

Determination of a potentially dangerous or dangerous dog.

(a) The Mayor is authorized to conduct an investigation and make a determination as to whether a dog is a potentially dangerous or dangerous dog. In determining whether a dog is a potentially dangerous or dangerous dog, the Mayor shall consider all evidence obtained or presented to the Mayor relevant to the issue of whether the dog's behavior was the result of provocation or otherwise justified under the circumstances. _

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KEYBOARD GUIDE

(b)

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(1) A dog shall not be determined to be a potentially dangerous or dangerous dog if the dog injured:

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(A) A person who, at the time of injury, was committing a willful trespass upon the premises lawfully occupied by the owner;

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(B) A person who, at the time of injury, was provoking, tormenting, abusing, or assaulting the dog or has repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; —

(C) A person or domestic animal because, at the time of injury, the dog was responding to injury, or was protecting itself or its offspring; or —

(D) A person or domestic animal because, at the time of injury, the dog was protecting or defending a human being within the immediate vicinity of the dog from an attack or assault. —

(2) The burden of proof on establishing that the dog falls into one of the categories described in paragraph (1) of this subsection is on the owner.

(c) The Mayor shall provide notice of the determination to the owner by personal service, posting, or prepaid mail. The owner may contest the determination and request a hearing by filing a written appeal within 15 business days of the date the notice of determination is served, posted, or mailed. The Mayor shall provide reasonable notice of the hearing to the owner.

(d)

(1) If the Mayor has probable cause to believe a dog is a potentially dangerous or dangerous dog and may pose a threat to public safety, the Mayor, after providing notice to the owner of the probable cause determination, may obtain a search warrant pursuant to Rule 204 of the Superior Court of the District of Columbia Rules of Civil Procedure and impound the dog pending final disposition of the case.

(2) The owner shall be liable to the District for the costs and expenses of the impoundment of the dog unless the dog is determined to be neither a potentially dangerous or dangerous dog. If a dog is determined to be a potentially dangerous or dangerous dog, the owner, prior to reclaiming the dog

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in accordance with § 8-1903, shall reimburse the animal control agency its costs and expenses for the care of the dogs while in the animal control agency's custody plus any reasonable veterinary fees incurred for the dog during the period of impoundment. An owner's failure to pay the costs and expenses within 5 days of a final determination shall result in ownership of the dog reverting to the animal control agency. —

(e) —

(1) The hearing shall be held not less than 5, and not more than 10 days, excluding holidays, Saturdays, and Sundays, after service of notice of the hearing upon the owner. The hearing shall be open to the public. The owner shall have the opportunity to present evidence as to why the dog should not be declared a potentially dangerous or dangerous dog, including evidence of provocation or justification pursuant to subsection (b) of this section, or not be determined to pose a threat to public safety if returned to its owner. The Mayor may decide all issues for or against the owner regardless of whether the owner appears at the hearing.

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(f) Within 5 days after the hearing, the Mayor shall notify the owner in writing of the determination of the hearing officer. —

(g)

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(1) Within 5 days of the issuance of an order by the hearing officer determining that the dog is a potentially dangerous or dangerous dog, the owner may bring a petition in the Superior Court of the District of Columbia seeking review of the determination.

(2) A court order vacating the determination shall not prevent the Mayor from later determining that the dog is a potentially dangerous or dangerous dog or poses a threat to public safety, based upon the dog's subsequent behavior.

History

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