

## City of Alexandria, Virginia

14  
11-13-01

## MEMORANDUM

DATE: NOVEMBER 7, 2001

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER 

SUBJECT: ORDINANCE TO AMEND THE CITY CODE TO ESTABLISH SPECIFIC RESTRICTIONS ON DOGS IN PUBLIC PARKS AND PLAYGROUNDS

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**ISSUE:** Consideration of an ordinance to amend the City Code to establish specific restrictions on dogs in public parks and playgrounds, to establish penalties for the violation of such restrictions, and to permit the enforcement of such restrictions by City employees designated by the City Manager, in addition to law enforcement officers and animal control officers.

**RECOMMENDATION:** That City Council pass the proposed ordinance on first reading, and set it for public hearing, second reading and final passage on Saturday, November 17, 2001.

**BACKGROUND:** On September 27, 2000, City Council approved the Master Plan for Dog Exercise Areas and Fenced Dog Parks. At the same meeting, Council passed an ordinance to implement the recommendations contained in the Master Plan. The proposed ordinance is intended to address additional complaints concerning dogs in public parks and playgrounds received by the Department of Recreation, Parks and Cultural Activities since Council's action last year.

**DISCUSSION:** Since Council's action last year, staff have received additional complaints concerning dogs in public parks and playgrounds, notably in areas outside of designated dog exercise areas. Specifically, we have received complaints that (1) owners permit their dogs to be unrestrained in public parks and playgrounds, outside of designated dog exercise areas, and (2) owners permit their dogs to defecate in public parks and playgrounds, without removing the material defecated and properly disposing of it.

While such conduct violates current City ordinances, those ordinances may only be enforced by law enforcement officers and animal control officers. The proposed ordinance establishes a scheme of specific violations in public parks and playgrounds, which may be enforced by employees of the Department of Recreation, Parks and Cultural Activities, in addition to law enforcement officers and animal control officers. This enforcement by Recreation employees is consistent with their enforcement of regulations applicable to dog exercise areas, previously sanctioned by Council in the ordinance adopted last year, and will make additional resources available to the effort to address the most recent complaints received by City staff.

In preparation for the enforcement of the regulations applicable to dog exercise areas, and the proposed ordinance which will extend enforcement authority to parkland areas, Recreation employees have recently attended a training session conducted by the Department and the Office of the City Attorney. The Recreation Department employees began enforcement of the dog exercise areas at the end of October.

**FISCAL IMPACT:** None.

**ATTACHMENT:** Proposed Ordinance

**STAFF:**

Sandra Whitmore, Director, Recreation, Parks and Cultural Activities  
Kirk Kincannon, Deputy Director, Recreation, Parks and Cultural Activities  
Lt. Jack Compton, Alexandria Police Department  
Mary Phelan, Director, Animal Shelter

EXHIBIT NO.

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Introduction and first reading:	11/13/01
Public hearing:	11/17/01
Second reading and enactment:	11/17/01

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to enact new Section 5-7-33.1 (RUNNING AT LARGE PROHIBITED IN PUBLIC PARKS OR PLAYGROUNDS; OWNERS NOT TO LET DOGS RUN AT LARGE IN PUBLIC PARKS OR PLAYGROUNDS; KEEPING DOGS UNDER PHYSICAL RESTRAINT IN PUBLIC PARKS OR PLAYGROUNDS), and new Section 5-7-42.1 (ALLOWING DOGS TO DEFECATE IN PUBLIC PARKS AND PLAYGROUNDS), and to amend and reordain Section 5-7-46 (PENALTIES) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), and to amend and reordain subsection (c) of Section 1-1-11 (CIVIL VIOLATIONS), Chapter 1 (USE AND INTRODUCTION) of Title 1 (GENERAL PROVISIONS), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance establishes specific restrictions on dogs in public parks and playgrounds, establishes penalties for the violation of such restrictions, and permits the enforcement of such restrictions by city employees designated by the city manager, in addition to law enforcement officers and animal control officers. The proposed ordinance also clarifies the authority of any enforcement officer to stop, question and identify a person whom the officer reasonably suspects has committed a civil violation.

Sponsor

None

Staff

Charles E. Samarra, Chief of Police  
Sandra Whitmore, Director, Recreation, Parks, and Cultural Activities  
Mary Phelan, Director, Animal Shelter  
Steven L. Rosenberg, Senior Assistant City Attorney

Authority

§§ 2.03, 2.04(p) and 2.06, Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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EXHIBIT NO. 3

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11-13-01

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to enact new Section 5-7-33.1 (RUNNING AT LARGE PROHIBITED IN PUBLIC PARKS OR PLAYGROUNDS; OWNERS NOT TO LET DOGS RUN AT LARGE IN PUBLIC PARKS OR PLAYGROUNDS; KEEPING DOGS UNDER PHYSICAL RESTRAINT IN PUBLIC PARKS OR PLAYGROUNDS), and new Section 5-7-42.1 (ALLOWING DOGS TO DEFECATE IN PUBLIC PARKS AND PLAYGROUNDS), and to amend and reordain Section 5-7-46 (PENALTIES) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), and to amend and reordain subsection (c) of Section 1-1-11 (CIVIL VIOLATIONS), Chapter 1 (USE AND INTRODUCTION) of Title 1 (GENERAL PROVISIONS), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 7 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is amended by adding new section 5-7-33.1 to read as follows:

Sec. 5-7-33.1            Running at large prohibited in public parks or playgrounds; owners not to let dogs run at large in public parks or playgrounds; keeping dogs under physical restraint in public parks or playgrounds.

(a)    No dog shall run at large within any public park or playground at any time.

(b)    It shall be unlawful for the owner of any dog to permit his dog to run at large in any public park or playground at any time.

(c)    It shall be unlawful for the owner of any dog to permit the dog to be in a public park or playground unless it is kept secured by a leash, lead or other means of physical restraint which leash, lead or other means of physical restraint is not harmful or injurious to the dog and which is held by a responsible person capable of physically restraining the dog, or it is in a designated and posted dog exercise area, as provided in section 6-1-2.2 of this code.

(d)    In addition to the officers identified in section 5-7-46, any city employee specifically designated by the city manager may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46.

Section 2. That Chapter 7 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is amended by adding new section 5-7-42.1 to read as follows:

Sec. 5-7-42.1 Allowing dogs to defecate in public parks or playgrounds.

It shall be unlawful for the owner of a dog to knowingly or willfully allow his dog to defecate in any public park or playground; provided, that defecation by a dog in any public park or playground shall not constitute a violation of this section if the owner of the dog immediately removes the material defecated and disposes of it in an appropriate trash receptacle. In addition to the officers identified in section 5-7-46, any city employee specifically designated by the city manager may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46.

Section 3. That section 5-7-46 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-7-46 Penalties.

(a) Except as otherwise provided in subsection (b) below, a person shall be assessed a civil penalty of \$50 for violating any provision of this article, except that, for each subsequent violation of any provision of this article occurring within 12 months of an earlier violation, the person shall be assessed a civil penalty of \$100.

(b) A person shall be assessed a civil penalty of \$100 for violating the provisions of sections 5-7-33.1 or 5-7-42.1 of this article, except that, for each subsequent violation of such provisions occurring within 12 months of an earlier violation, the person shall be assessed a civil penalty of \$250.

(bc) If an animal control officer or law enforcement officer determines that a violation of this article has occurred, he shall issue and serve, or cause to be served, a notice of violation on any and all persons committing the violation. The notice shall provide that the person served may elect to make an appearance, either in person or in writing by mail, before the treasurer of the city, and admit liability for or plead no contest to the violation and pay the civil penalty established for the violation, all within the time period set forth in the notice. If a person so notified does not elect to admit liability or to plead no contest, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided in civil actions at law. A finding or admission of liability or a plea of no contest shall not be deemed a criminal conviction for any purpose.

(d) A violation of the provisions of this article shall be an offense separate from a violation of the provisions of chapter 1 of title 6 of this code.

Section 4. That subsection (c) of section 1-1-11 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 1-1-11 Civil violations.

(c) Procedures.

(1) If the head of the department or office of city government responsible for the administration or enforcement of any provision of this code determines that a civil violation of this code within his area of responsibility has occurred, such a department or office head may cause a notice of the violation to be served on any or all persons committing or permitting such violation. Any such department or office head may delegate his authority under this section to one or more subordinate employees.

(2) The notice shall state that the person served has been charged with violating one or more provisions of the city code that are punishable by civil penalty, shall identify, each such provision, and shall provide that the person may elect to make an appearance in person before or in writing by mail to the treasurer of the city, and admit liability for or plead no contest to the violations, abate the violations, and pay the civil penalty established for each violation, all within the time period fixed in the notice.

(3) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria general district court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the general district court, the violation shall be tried in the Alexandria circuit court.

(4) A finding or admission of liability for, or a plea of no contest to, a civil violation shall not be deemed a criminal conviction for any purpose. An admission of liability shall have the same force and effect as a judgment in court.

(5) Any city officer or employee responsible for the enforcement of any provision of this code may stop and question any person concerning a civil violation of this code. In the event the officer or employee has a reasonable suspicion, based upon objective facts, that any person has committed a civil violation of this code, such person shall upon request furnish the officer or employee with accurate information sufficient to identify the name, residence address and telephone number of the person, and, if the violation arises in connection with the conduct of any trade, business or occupation, to identify the name of the trade, business or occupation and the address and telephone number thereof. The failure or refusal by such person to furnish such information shall constitute a violation of section 13-3-1 of this code. Any false or fictitious statement or representation knowingly made by such person in furnishing such information shall constitute a violation of section 13-3-2 of this code.

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Introduction: 11/13/01  
First Reading: 11/13/01  
Publication:  
Public Hearing:  
Second Reading:  
Final Passage:

N.B. Underlining is not part of the ordinance but denotes material that is new or amended.  
Strike-outs or dashes are not part of the ordinance but denote material that is being  
deleted.

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- CITY SEAL -

Public Hearing will be held by the City Council of the City of Alexandria, Virginia, in the Council Chamber, City Hall, City of Alexandria, Virginia, on Saturday, November 17, 2001, at 9:30 a.m., or as soon thereafter as may be heard on the hereinafter described ordinances.

TITLE OF ORDINANCE

AN ORDINANCE to enact new Section 5-7-33.1 (RUNNING AT LARGE PROHIBITED IN PUBLIC PARKS OR PLAYGROUNDS; OWNERS NOT TO LET DOGS RUN AT LARGE IN PUBLIC PARKS OR PLAYGROUNDS; KEEPING DOGS UNDER PHYSICAL RESTRAINT IN PUBLIC PARKS OR PLAYGROUNDS), and new Section 5-7-42.1 (ALLOWING DOGS TO DEFECATE IN PUBLIC PARKS AND PLAYGROUNDS), and to amend and reordain Section 5-7-46 (PENALTIES) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), and to amend and reordain subsection (c) of Section 1-1-11 (CIVIL VIOLATIONS), Chapter 1 (USE AND INTRODUCTION) of Title 1 (GENERAL PROVISIONS), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

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TITLE OF ORDINANCE

AN ORDINANCE to amend and reordain Section 11-1302 (SPECIAL EXCEPTION ESTABLISHED) of Division C (BOARD OF ZONING APPEALS), Article XI (DEVELOPMENT APPROVAL AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA No. 2001-0001).

The proposed ordinance accomplishes the final adoption of Text Amendment No. 2001-0001, to authorize the Board of Zoning Appeals to consider a special exception to modify yard and setback requirements, and permit construction in line with an existing wall plane, in certain limited circumstances.

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TITLE OF ORDINANCE

AN ORDINANCE to vacate a part of the public street right-of-way in front of 109 Franklin Street, in the City of Alexandria, Virginia. The proposed ordinance vacates a 15- by 20-foot strip of the public street right-of-way in front of 109 Franklin Street, in the City of Alexandria, Virginia.

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THE PUBLIC IS ADVISED THAT AMENDMENTS OR ADDITIONS MAY BE MADE TO PROPOSED ORDINANCES WITHOUT FURTHER PUBLICATION. IT IS RECOMMENDED THAT PERSONS INTERESTED IN ANY OF THESE ORDINANCES OBTAIN FREE FULL-TEXT COPIES FROM THE CITY CLERK AT CITY HALL. BEVERLY I. JETT, CMC, CITY CLERK

To be published in the:

Alexandria Journal on Thursday, November 15, 2001

Alexandria Gazette Packet on Thursday, November 15, 2001