

EXHIBIT NO. 1 18
11-17-01

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City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 7, 2001
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*
SUBJECT: ORDINANCE TO AMEND THE CITY CODE TO ESTABLISH SPECIFIC RESTRICTIONS ON DOGS IN PUBLIC PARKS AND PLAYGROUNDS

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. 2

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11-17-01

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~~11-13-01~~

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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11-17-01

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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: 11/15/01
Public Hearing: 11/17/01
Second Reading: 11/17/01
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.





*Sent to CA #18
cc:rec'd. PF 11/17/01*

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November 19, 2001

The Honorable Kerry J. Donley
Mayor, City of Alexandria
Room 2300, City Hall
301 King Street
Alexandria, VA 22314

Dear Mr. Mayor,

I watched with great interest the discussion of Item 18 on the docket of your Public Hearing of November 17, 2001 concerning the City Code with respect to off-leash dogs. I didn't take your time on Saturday, but after listening to the public testimony I feel compelled to express my views before you take final action in December.

First, Councilwoman Eberwein was right on target when she stated that this provision in the Code must be severe enough to be a major deterrent. Deterrent effect is critical because of the limited number of enforcers, but more importantly how many enforcers are on duty from six to eight o'clock in the morning, five to seven or eight o'clock in the evening, and on weekends when most dog owners are off from work and outside with their dogs?

Second, Councilwoman Pepper was also on target when she expressed concern as to whether enforcement will be given serious consideration by whoever is responsible. The last time I talked with a Police officer, which was some time ago, he said they didn't have it listed on their citation book and he wasn't even sure how to issue the citation. That may have been corrected by now. However, I got the impression that it was considered very low priority on his list of crimes. Very recently my husband asked an officer about it. Seeing our dog but not knowing my husband's position on the issue, he reassured my husband that they would not enforce the leash laws unless there was a specific complaint. The practical matter is that by that time the dog and owner are long gone from the scene of the infraction. On far more than one occasion, my neighbor and I have also seen the Animal Control Van, which is currently responsible for enforcement, drive right down North Union Street past Founders Park while a dog was merrily cavorting around the south end of the park a good 30 yards from the designated area. With regard to non-police enforcers Mrs. Pepper asked, "Why would they take this seriously and get into a confrontation mode?" She is absolutely right. When I have politely asked people to please put their dog on a leash, sometimes they do so, but more often I get a direct verbal response that cannot be repeated in this letter and the dog continues off leash.

Why is this important to me? My dog was the friendliest puppy that ever lived. Even strangers walking down the street would smile and say that he was going to wag that tail right off. The same is true nine years later with regard to any person, friend or stranger. However, he now quivers whenever a large dog comes toward him. Why? From experiences he has had in Old Town. He has been charged and even attacked on several occasions by large off leash dogs. At fifteen pounds you can guess which dog got bitten and mauled. Once a large off leash dog ran over to us and was literally standing over my dog while he was on leash. As the owner yelled from a distance that it was friendly, the dog proceeded to attack. Now I am afraid every time a large dog runs toward us. I pick up my dog which I know endangers me, but it is my protective instinct. I have spoken with several owners of other small dogs and they tell me that they respond the same way. One friend said she had to jump up on a car to protect herself and her little dog from a big dog on the attack. Responsible dog owners know how much their pets mean to them and should identify with or at least understand our protective reactions. Think about how children react who have been subjected to rambunctious dogs. Then try to imagine how individuals, children, and mothers would react who have experienced actual attacks. When a dog is running toward you, you do not know whether it is going to lick you, charge you or attack you – until it is too late.

THIS IS NOT A DOG ISSUE – THIS IS A PEOPLE ISSUE. The psychological trauma created by dogs off leash in non-designated areas is analogous to purse snatching. Once one has been victimized, let alone multiple times, one is stressed in what other people may consider to be routine uneventful situations. Because the psychological result is much the same, the deterrent effect of the Code should be comparable. Although just as elusive as purse snatching, the seriousness of enforcement should be just the same. Even the enforcement of existing leash laws outside parks should be subject to increased enforcement. Currently the most complaints are coming with regard to the parks, but that is merely because that is where the dogs are concentrated and they are easily identifiable locations. I have had the same experiences while walking the sidewalks of Old Town. Yes, Alexandria is known for being dog friendly. We don't want our City to become known for traumatizing residents and tourists alike.

Sincerely,



P.S. After your hearing, in the wee hours of Sunday morning my husband and I went to Founders Park to watch the meteor shower. We sat in our lawn chairs with our dog on my lap. He sat there for over an hour without making a sound. However, “Jackson”, a very large black dog, ran up to within a few feet of us and barked loudly directly at us. I know the dog's name because the owner repeatedly called his name to no avail. Luckily for us he came no closer, but we weren't certain of that for awhile, and he proceeded to lope around the park. He was later joined by another big dog, and they continued to run free together. What enforcer is going to be there at that time of the morning? Only some very serious form of deterrent will have any effect on behavior. I have to take my dog out early in the morning and after dark at night. How will you solve the enforcement issue?

CC: City Council Members
Phil Sunderland, City Manager
Sandra Whitmore, Parks and Recreation

A Positive Model: **BISCUITS INSTEAD OF STICKS**

Events/Old Town School for Dogs	SANTA PHOTOS	CANINE GAMES	Ten-year Total
Incidents	0	0	0
How many years	10 years	10 years	
How many dogs	3,570 ¹	4,000 – 5,000 ²	Over 8,000 dogs
Where	40 sq. feet interior w/decorations at OTSD	Open field	
Who	Kids, parents, onlookers, volunteers, usual Sat. trade	Kids, parents, volunteers, vendors	1000's people

Y	N	QUESTIONS?
		1. What does OTSD know that city staff doesn't? Why hasn't staff met w/OTSD?
		2. Do you think it smart or fair that city staff spend your tax dollars on sticks (enforcement) instead of carrots (education and training)? What distinguishes show dogs, bomb dogs, cadaver dogs, guide dogs, sled dogs, K-9 dogs, search dogs, assistance dogs, stock dogs, therapy dogs, movie dogs, obedience dogs, etc., from some family dogs?
		3. Why weren't dog parks raised at the recent Animal Welfare dinner attended by 350 members?
		4. Do you think people who are on record, as 'not liking dogs' should serve on open-space related committees and commissions?
		5. Is the proposal intended to compensate for loss of revenue owing to 9/11?
		6. Will the dog park controversies improve without OTSD (expert) inputs?
		7. Do the dogs at Santa Photos and Canine Games come from MARS? And the dogs in parks from hell?
		8. What are Alexandria canine demographics? Average age, weight, distribution, breed, etc? Is this a one-size-fits-all problem?
		9. Do you know that more Americans have dogs than participate in soccer, softball, and tennis—all <i>populations whose needs are recognized and addressed by those who plan public facilities?</i> <u>Dogs For Dummies</u> (2001 p 269).
		10. Do you agree with American Society for the Prevention of Cruelty to Animals: A Complete Guide to Dogs : <i>Labrador retrievers need a lot of exercise—daily vigorous walks and an opportunity daily, to romp and retrieve balls... They love water and in all fairness, should be taken to swim and retrieve ... on a regular basis. Field stock is generally much higher in energy than show stock.</i> (1999, pp.256-257)