

MEMORANDUM

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA 
CITY ATTORNEY

DATE: DECEMBER 6, 2001

SUBJECT: SUBSTITUTE ORDINANCE AUTHORIZING RECREATION DEPARTMENT STAFF TO ENFORCE DOG REGULATIONS IN PARKS

As you will recollect, last month City Council held a public hearing on the ordinance to authorize designated Recreation Department staff to enforce in public parks the existing regulations governing off-leash dogs and requiring owners to clean up after their pets. At the conclusion of the hearing, Council requested three amendments to the ordinance. The requested amendments (1) clarify the ordinance to require that Recreation Department enforcement personnel be uniformed and carry adequate identification; (2) simplify the civil penalty structure to provide a single penalty for dog related civil violations generally, and a single penalty for violations occurring in parks, and (3) require that all city employees be uniformed and carry identification when interacting with the public in a civil penalty enforcement capacity.

With these amendments, the substitute ordinance achieves Council's previously expressed goal of enhancing the enforcement of park use rules; properly addresses the concerns raised by several speakers during the public hearing, strikes a reasonable balance between the divergent interests of different park patrons, and maintains a sufficient deterrent to unlawful, and potentially harmful and disruptive, conduct.

The requested amendments are discussed individually in the section-by-section analysis which follows. Underlining denotes material that is new or amended. Strike-outs or dashes denote material that is being deleted. Bold and underlined typeface denotes material that is new or amended by the substitute ordinance. Bold typeface with strike-outs or dashes denotes material that is being deleted by the substitute ordinance.

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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the subsection “uniform” shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee’s department, office or agency, and “identification” shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

This section *makes no substantive change* to the regulations applicable to dogs in parks. Subsections (a) and (b) allow recreation staff to enforce in parks the existing prohibition on running at large contained in Sections 5-7-32 and 5-7-33. Subsection (c) allows staff to enforce the existing prohibition on off leash dogs, set forth in Section 5-7-35.

Some commenters at the public hearing suggested that the prohibition on running at large should not apply in off leash exercise areas. For the following reasons this suggested change has not been made. The running-at-large offense is distinct from the off-leash offense. Under venerable common law precedent, an animal “running at large” is roaming, straying, running or self-hunting, *and is not under its owner’s control in any sense*. See *Stout v. Bartholomew*, 544 S.E.2d 653, 657 (Va. 2001), *Virginia Farm Bureau Mut. Ins. Co. v. Simpkins*, 231 S.E.2d 226, 229 (Va. 1977), *Black’s Law Dictionary*, 5th ed., page 1197. The running-at-large prohibition is expressed both as an *in rem* prohibition (“no dog shall run at large”) and as an *in personam* prohibition (“unlawful for the owner of any dog to permit his dog to run at large”), so as to apply

to, and permit staff to take into protective custody, both homeless dogs which have no owner as well as escaped pets, and to provide a sanction against errant owners.

A dog in an off leash area under Section 6-1-2.2 must be “in [the] owner’s view and under his or her voice control.” Thus, a dog lawfully using an off leash exercise area is not “running at large.” Conversely, a stray dog running in an off leash area without its owner present and in voice control is “running at large,” and this is not permitted in the off leash area. In summary, “running at large,” that is without the owner present and in voice control, is not permitted anywhere in public parks. In contrast, exercising a dog off leash, including of course running off leash, with the owner present and in voice control, is permitted, but only in designated dog exercise areas.

This section changes existing law to authorize designated Recreation Department staff to enforce *on all public parkland* the regulations, applicable today, which prohibit dogs from running at large anywhere in parks, and which prohibit off leash dogs accompanied by their owners anywhere except in a designated exercise area. Presently, only law enforcement and animal control officers are authorized to enforce these regulations in the parks. Recreation personnel already have enforcement authority within off leash exercise areas.

The amendment made by the substitute ordinance directs that, when engaged in enforcement, Recreation Department staff must wear a shirt, jacket or coat with the City seal and which identifies them as employees of the Recreation Department. In addition, staff must carry either an identification card with photograph, which identifies the bearer as authorized to enforce these regulations, or a badge with number, which likewise identifies the bearer as a legitimate enforcement officer. City staff believe that these provisions are adequate to reassure any person who observes or interacts with staff in an enforcement context, and I agree with their conclusion.

Sec. 5-7-42.1 Dog defecation 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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the section “uniform” shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee’s department, office or agency, and “identification”

shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

This section *makes no substantive change* to the regulations applicable in parks. Section 5-7-42(3) presently requires owners to clean up after their dogs in parks and elsewhere. This section changes existing law to authorize designated Recreation Department staff to enforce the clean up requirement in public parks.

The amendment made by the substitute ordinance directs that, when engaged in enforcement, Recreation Department staff must be in uniform and properly identified, as discussed above.

Testimony at the public hearing suggested that the language which provides for the “immediate” removal of the waste material be deleted. This change has not been made. The immediacy requirement applies only to the *removal* of the waste from the ground. Thereafter, the owner may proceed to dispose of the waste in an appropriate and convenient manner. In my judgement, deleting the immediate removal requirement will substantially impair enforcement of the clean up regulation, and ill serve all park patrons.

Other testimony received at the public hearing suggested that the structure of this section be revised, from the present language which prohibits canine defecation generally, and excuses the prohibition upon clean up, to language which simply makes the failure to clean up a violation. This change has not been made. The present language tracks existing law, and in my judgement places the proper emphasis on the substantial nuisance caused by canine defecation in public places. Additionally, I believe that the present language aids enforcement, by placing the burden on the owner to show that he or she, in fact, cleaned up after the pet.

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.

Subsection (a) of this section applies to all civil penalty offenses relating to dogs, other than the running-at-large, off-leash and clean-up regulations in parks discussed above. Subsection (b) applies to these latter offenses.

As suggested by Council at the conclusion of the public hearing, the penalty structure in both cases has been simplified, to eliminate any enhanced penalty for subsequent offenses. This simplification has obvious administrative benefits. On the other hand, testimony at the public hearing clearly implied, and experience and complaints to date confirm, that, at least as to public parks, the existing \$50 penalty is viewed by a significant number of pet owners as an acceptable risk for non-compliance, given the attractiveness of park areas for off leash exercise. Accordingly, the City Manager and his staff have proposed a \$100 penalty for running-at-large, off-leash and clean-up civil violations on park property.

I believe that this penalty is reasonable and in keeping with the penalty for other, similar infractions of the City Code. For example, the penalty for parking in a space reserved for persons with a disability is not less than \$100 nor more than \$500. Section 10-3-1242(c). This penalty was increased to the present level in 1997 in order to enhance deterrence. The penalty for violating any provision of the building maintenance code is, for the first violation, a civil penalty of \$100. Section 8-1-6(b).

Allowing a dog to run off leash, even under supposed voice control, has the potential for causing injury to other persons, other pets, the property of others, as well as to the dog itself. Moreover, common sense and experience suggest that it is less likely that the owner will be aware of, and

clean up after, defecation by an off leash dog. Failing to clean up after a dog presents health hazards, materially detracts from enjoyment of the City's park resources, and manifests a contempt for the rights of other citizens. For these infractions then, particularly in public parks, a \$100 penalty is reasonable.

In addition, testimony at the public hearing concerning the penalty level for violation of certain state laws was misleading. For example, the penalty for most traffic infractions, *e.g.*, turning without giving the required signal as required by Virginia Code Section 46.2-848, is a fine of up to \$200. Virginia Code Section 46.2-113. In the event a person charged with such a violation waives hearing and pleads guilty, the Rules of the Virginia Supreme Court provide for the imposition of a \$30 fine, plus court costs in the amount of \$28, for a total penalty of \$58. Likewise, drinking in public is a Class 4 misdemeanor, Virginia Code Section 4.1-308, for which the punishment is a fine up to \$250. Virginia Code Section 18.2-11(d). Under the Court Rules, a defendant who waives trial and pleads guilty pays a \$25 fine, plus \$28 in costs, or \$53.

New subsection(d) clarifies that these civil penalty infractions relating to dogs are separate and distinct from other park use regulations contained in the City Code.

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 of the city who is (1) responsible for the enforcement of any provision of this code, (2) wearing a uniform and (3) carrying identification, may stop approach 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. As used in the paragraph “uniform” shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee’s department, office or agency, and “identification” shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

This section applies to civil penalty offenses throughout the City Code, both as relate to the keeping of animals as well as to other matters. The proposed amendment is, in my view, declarative of existing law, and as revised by the substitute ordinance, more closely tracks the recognized authority of law enforcement officers to approach and voluntarily question any person, and to stop and question any person whom they reasonably believe, based on objective facts, to have committed an offense. See *Florida v. Bostic*, 501 U.S. 429 (1991) and cases there collected. This is an essential enforcement tool. Articulating these rules as to civil penalties is intended to assist city personnel in performing their enforcement duties.

The amendment made by the substitute ordinance directs that, when exercising this authority, civil enforcement personnel must wear a shirt, jacket or coat with the City seal and which identifies them as employees of particular department in which they work. In addition, such staff must carry either an identification card with photograph, which identifies the bearer as authorized to enforce civil penalty regulations, or a badge with number, which likewise identifies the bearer

as a legitimate enforcement officer. I believe that these provisions are adequate to reassure any person who observes or interacts with staff in an enforcement context.

For reference, I have attached a copy of the City Code dog regulations as they presently exist.

City staff and I will be available to answer questions at Council's legislative meeting on December 11th.

Attachment

cc: Philip Sunderland
City Manager

Charles E. Samarra
Chief of Police

Sandra Whitmore
Director, Recreation, Parks, and Cultural Activities

Mary Phelan
Director, Animal Shelter

Sec. 5-7-31 Definitions.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this article, have the following meanings:

- (a) Animal control officer. Any person appointed as the chief animal control officer or a deputy animal control officer under section 5-7-44 of this code.
- (b) Animal shelter. The facility designated by the city manager for the detention of animals.
- (c) Dangerous dog. Any dog which is capable of inflicting death or serious injury on a person or another animal and which:
 - (1) has, without provocation, attacked or bitten a person engaged in a lawful activity;
 - (2) has, while off the property of its owner and without provocation, killed or seriously injured another animal;
 - (3) has, without provocation, chased, confronted or approached a person on a street, sidewalk or other public property in a menacing fashion such as would put an average person in fear of attack;
 - (4) has exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation; or
 - (5) has acted in a manner that causes or should cause its owner to know that it is potentially vicious.
- (d) Dog. The word "dog" shall include both the male and female sex of the species.
- (e) Commercial dog handler. Any person who boards, keeps, handles or walks dogs owned by another person for compensation.
- (f) Dwelling unit. A group of one or more rooms designed or intended for use as a residence, including a single-family home, a townhouse, a duplex, a condominium and an apartment.
- (g) Hearing dog. Any dog specially trained to alert its owner by touch to sounds of danger or other sounds to which the owner should respond.
- (h) Law enforcement officer. Any employee of the Alexandria police department who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth.
- (i) Owner. A person having a right of property in a dog or cat, and any person who keeps or harbors a dog or cat or has it in his care or control, or who acts as its custodian, including, but not limited to, a commercial dog handler and any person who permits a dog or cat to remain on or about any premises occupied by him.
- (j) Run or running at large. Roaming or running off the premises of its owner not 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.
- (k) Seeing-eye dog. Any dog that is specially trained to serve as a guide for a blind person.
- (l) Service dog. Any dog that is specially trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or performing other activities of service or support.
- (m) Vicious dog. Any dog which:
 - (1) has caused death or serious injury to a person engaged in a lawful activity;
 - (2) has, on two or more occasions within a 12-month period, attacked or bitten without provocation a person engaged in a lawful activity;
 - (3) has, on two or more occasions within a 12-month period, while off the property of its

owner and without provocation, killed or seriously injured another animal; or
(4) has been trained for dog fighting or is owned or kept for the purpose of dog fighting.
(Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 1; Ord. No. 4163, 9/27/00, Sec. 1)

Sec. 5-7-32 Running at large prohibited.

No dog or exotic or poisonous animal shall run at large within the city at any time. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 2)

Sec. 5-7-33 Owners and custodians not to let dogs or exotic or poisonous animals run at large.

It shall be unlawful for the owner or custodian of any dog or exotic or poisonous animal to permit his dog or exotic or poisonous animal to run at large in the city at any time. Any owner or custodian who permits his exotic or poisonous animal to run at large shall, in addition to any penalty provided under this article, be liable for a fee determined by the city manager to cover the costs incurred by the city in locating and capturing, or otherwise disposing of, the animal. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 3)

Sec. 5-7-34 Impounding of dogs running at large; redemption of impounded dogs; disposition of unredeemed dogs.

(a) Any dog observed by an animal control officer or a law enforcement officer to be running at large shall be impounded and kept at the animal shelter. If the dog has upon it the name or address of the owner, or such name or address is otherwise known to the operators of the animal shelter, then the operators of the animal shelter shall notify the owner within 24 hours after seizure of the dog. If the dog has upon it a license tag, then the operators of the animal shelter shall notify the person in whose name the license stands within 24 hours after obtaining the name. Notice of the impounding shall be in writing by mail, postage prepaid, and shall be construed as having been given at the time of posting thereof. If the dog impounded has no name, address or license tag upon it and the owner is not otherwise known to the operators of the animal shelter, then no notice shall be necessary. Notwithstanding the above, whenever written notice is required the operators of the animal shelter shall, prior to mailing, make one reasonable attempt to give notice by telephone.

(b) The owner of any dog so impounded shall be entitled to possession of the dog upon proof of ownership satisfactory to the operators of the animal shelter and the payment of reasonable charges designated by the city manager for the impoundment of a dog and the keep of a dog; provided, however, that before release to any person:

(1) If the dog has not been inoculated against rabies, the provisions of section 5-7-38 of this code relative to inoculation shall be complied with at the owner's expense.

(2) If the dog is not licensed, a license as required by this article shall be secured.

(3) All the other applicable sections of this article shall be complied with.

(c) Any dog which has been impounded and has not been redeemed by the owner may be destroyed, or redeemed by and released to any person desiring to give the dog a home upon the payment of a reasonable charge designated by the city manager and upon compliance with the applicable provisions of this article; provided, that any dog shall be held for at least five days after impounding, and in those cases where it is required that notice be given the owner, held for at least five days after the required notice has been given.

(d) The sums collected pursuant to the provisions of this section shall be accounted for and promptly paid over to the director of finance for deposit in the general fund of the city. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 4)

Sec. 5-7-35 Keeping dogs under physical restraint.

(a) Except as provided below, it shall be unlawful for the owner of any dog to permit the dog to be off the premises of its owner 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.

(b) The leash, lead or other means of physical restraint may be removed from a dog in a designated and posted dog exercise area, as provided in section 6-1-2.2 of this code.

(c) The leash, lead or other means of physical restraint may be removed from a dog on private property, other than the property of the owner; provided that the owner or person in control of such private property has permitted such dog to be present without a leash, lead or other means of physical restraint. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4163, 9/27/00, Sec. 2)

Sec. 5-7-36 Vicious and dangerous dogs generally.

(a) It shall be unlawful for any person to keep within the city any vicious dog. Upon finding that a dog is vicious, a court of competent jurisdiction may order the dog to be impounded and destroyed or to be removed from the city.

(b) It shall be unlawful for any person to keep within the city any dangerous dog, except in compliance with a permit issued by the city manager under section 5-7-36.2.

(c) Each day during which a person keeps a vicious dog in the city following the removal date set out in a notice from the chief animal control officer under section 5-7-36.1(c) shall constitute a separate offense for purposes of section 5-7-46. Each day during which a person keeps a dangerous dog in the city either without a permit issued by the city manager under section 5-7-36.1 or in violation of one or more of the conditions imposed by such a permit shall constitute a separate offense for purposes of section 5-7-46. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-36.1 Complaints of vicious and dangerous dogs; processing of complaints.

(a) Any person may make a verbal or written complaint to the chief animal control officer of a dog which the complainant believes to be vicious or dangerous. The complaint shall include sufficient information to enable the chief animal control officer to ascertain the location and owner of the dog and shall also include the reasons why the complainant believes the dog to be vicious or dangerous. In the case of a verbal complaint, the complaint shall be put in writing by the chief animal control officer. A copy of the complaint shall then be mailed by the chief animal control officer to the owner of the dog at the owner's last known address.

(b) Within 10 days of the making of the complaint, the chief animal control officer shall undertake an investigation to determine whether the dog identified in the complaint is vicious or dangerous. Such investigation shall include an opportunity for the owner of the dog to present evidence to the chief animal control officer pertinent to the viciousness or dangerousness of the dog, and may include interviews with the complainant and other persons having personal knowledge regarding the dog, and observations of the dog in its normal habitat.

(c) Upon completion of the investigation, the chief animal control officer shall determine whether the dog identified in the complaint is vicious or dangerous.

(1) If the chief animal control officer determines that the dog is neither vicious nor dangerous, he/she shall inform the complainant and the owner of the determination, and no further action shall be taken on the complaint.

(2) If the chief animal control officer determines that the dog is vicious, he/she shall put the determination in writing, as well as the reasons supporting it. The chief animal control officer shall then forward this written determination to the complainant and the owner and, in addition, shall notify the owner that the dog must be destroyed or removed from the city within seven days. If the owner fails to destroy or remove the dog within such period, the chief animal control officer shall recommend to the city manager that the city seek an order from a court of competent jurisdiction requiring that the dog be destroyed or removed from the city. Nothing in this section shall be construed as impairing or affecting in any way the authority of the chief animal control officer under section 5-7-37 to confine a dog identified in a complaint during the conduct of the investigation to determine whether the dog is vicious or dangerous.

(3) If the chief animal control officer determines that the dog is dangerous, he/she shall notify the city manager of the determination and of the requirements which should be included in the permit to be issued by the manager under section 5-7-36.2.

(d) The chief animal control officer may delegate the authority and responsibilities assigned to her by this section, or any part thereof, to any deputy animal control officer. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4165, 9/27/00, Sec. 1)

Sec. 5-7-36.2 Dangerous dog permit.

(a) Requirements; issuance; determination of dangerousness of dog. Upon receipt of a determination by the chief animal control officer under section 5-7-36.1(c) that a dog is dangerous, the city manager shall immediately issue to the owner of such dog a dangerous dog permit. This permit shall authorize the continued keeping of the dog within the city only so long as the owner complies with the requirements set forth in the permit. Such requirements shall include those recommended to the city manager by the chief animal control officer under section 5-7-36.1(c) and such others as the city manager determines necessary to ensure that no person or animal is injured by the dog. Permit requirements may include, but are not limited to, the following:

(1) that the dog wear a special and conspicuous form of identification (such as a blaze orange collar);

(2) that the owner immediately notify the chief animal control officer in the event the dog is loose and unconfined, has attacked or injured a human being or another animal, has been sold or given to another person, or has died;

(3) that the dog, while on the property of the owner, be confined indoors or in a securely enclosed and locked structure, suitable to prevent the entry of children and designed to prevent the dog from escaping;

(4) that the owner display one or more signs on his/her property which provide a clear warning to children of all ages and adults that a dangerous is present on the property;

(5) that, while off the owner's property, the dog be muzzled and/or restrained in a particular manner and be under the control of an adult;

(6) that the owner attend one or more educational classes on the responsible keeping of

dangerous dogs; and

(7) that, upon request of the city manager, the owner make the dog available for inspection by the chief animal control officer.

(b) Reconsideration of requirements; hearing; evidence allowed; revocation of permit; modification of requirements.

(1) Within 10 days of receipt of a permit issued under subsection (a), the owner of the dog may request in writing the city manager to reconsider the determination that the dog is dangerous and/or some or all of the requirements set forth in the permit. Upon receipt of such a request, the city manager shall offer the owner an opportunity to present at an informal hearing evidence pertinent to the dangerousness of the dog and to the requirements identified in the request for reconsideration. Written notice of the date, time and place of such hearing, as well as of the person designated by the city manager to serve as the hearing officer, shall be sent to the owner and the complainant at least seven days prior to the hearing. At the hearing, in addition to receiving evidence from the owner and the complainant, the hearing officer may receive evidence from the chief animal control officer, a veterinarian, a licensed animal trainer, a humane society agent and any person having personal knowledge of the dog's condition.

(2) Within 10 days of the hearing, the hearing officer shall notify in writing the owner and the complainant of his/her decision whether to confirm the determination that the dog is dangerous and the requirements set out in the permit. If the hearing officer determines the dog not to be dangerous, the permit issued under subsection (a) shall be revoked and no further action shall be taken on the complaint. If the hearing officer confirms that the dog is dangerous but decides that certain requirements set out in the permit issued under subsection (a) are not necessary for the protection of the public and other animals, he/she shall delete or modify those requirements but otherwise confirm both the permit, as modified, and the owner's obligation to comply with it. If the hearing officer confirms the permit and the requirements set out in it, he/she shall also confirm the owner's obligation to comply with it.

(c) Compliance; removal of dog for noncompliance by owner. In the event an owner of a dangerous dog fails to comply with any of the requirements imposed by a permit issued under this section, the chief animal control officer shall notify the owner of his/her failure, and the owner shall have 10 days following receipt of the notice in which to come into compliance with the permit. If the owner fails to do so, the city manager is authorized to seek an order from a court of competent jurisdiction requiring that the dog be removed from the city.

(d) Request for rescission or modification of permit by chief animal control officer; fee; information required. An owner of a dangerous dog who believes that the dog is no longer dangerous within the meaning of section 5-7-31(d) or that certain requirements set out in the dog's permit are no longer necessary for the protection of the public and other animals may request the chief animal control officer to rescind the determination that the dog is a dangerous dog or to delete or modify those permit requirements; provided, that no such request may be made within the first 12 months following the initial determination that the dog is dangerous. Such a request must be accompanied by the fee required by subsection (e). In reviewing such a request, the chief animal control officer may require the owner to produce the dog for inspection, to allow the chief animal control officer to observe the dog in its natural habitat and to submit information pertinent to the dangerousness of the dog. In the event the chief animal control officer determines that the dog is no longer dangerous, the permit issued under this section shall be revoked. In the event the chief animal control officer determines that the dog still constitutes a

dangerous dog but that certain requirements contained in the permit are no longer necessary, he/she may delete those conditions from the permit or modify them.

(e) Fees. The owner of any dog subject to a permit issued under this section shall pay to the chief animal control officer, within 10 days of the issuance of the permit or, if applicable, of a hearing officer's confirmation of the permit under subsection (b)(2), a fee of \$150. Any owner requesting the rescission or modification of a permit under subsection (d) shall pay a fee of \$50 at the time he/she makes the request.

(f) The chief animal control officer may delegate the authority and responsibilities assigned to her by this section, or any part thereof, to any deputy animal control officer. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 5)

Sec. 5-7-37 Impounding of vicious dog; confinement of animal which has committed an attack.

(a) Whenever a complaint is made to the chief animal control officer that a dog is vicious or dangerous, and the chief animal control officer undertakes an investigation to determine whether the dog identified in the complaint is vicious or dangerous, the dog in question shall be impounded and kept at the animal shelter, at the owner's expense, pending final disposition of the case, provided such animal is not destroyed as provided by section 5-7-39. If the chief animal control officer determines that the owner of the dog can confine the dog in a manner that protects the public safety, he may permit the owner to confine the dog at a location other than the animal shelter until final disposition of the case.

(b) Whenever a report is made, as provided by section 5-7-40, of a person having been bitten by an animal or a notice is received by the police department, the health department, an animal control officer or the operators of the animal shelter of an animal having bitten a person or another animal, and, in the case of a dog, no summons or notice of violation has been issued under section 5-7-37 charging maintenance of a vicious dog, an animal control officer shall forthwith issue an order to the owner of the animal directing that the animal be confined under quarantine and kept under observation on the premises of the owner, or of a private kennel for a period of 10 days following the issuance of the order at the expense of the owner, during which time the animal shall never leave the premises, and the order shall be served upon the owner by an animal control officer in the manner provided by section 8.01-296, Code of Virginia. If, within the ten-day period, an authorized representative of the director of public health or a licensed veterinarian reports that the animal shows no symptoms of rabies and, in the case of a dog, no summons or notice of violation has been issued under section 5-7-37, the animal shall be released from quarantine. If a report of rabies is made or if, in the case of a dog, a summons or notice of violation is issued before the expiration of the ten-day period, the animal shall be immediately removed by an animal control officer to the animal shelter pending a final disposition of the case; and costs to keep the animal at the animal shelter shall be charged to its owner.

(c) If an owner does not comply with the provisions of an order issued pursuant to this section within 24 hours from the time he is served, the animal in question shall be impounded by an animal control officer, at the animal shelter, and kept under observation at the owner's expense for a period of 10 days, and the owner shall be charged with a violation of this section. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 6; Ord. No. 4165, 9/27/00, Sec. 2)

Sec. 5-7-38 Inoculation of dogs against rabies.

It shall be the duty of every resident of the city owning or in possession of a dog four months old or older within the city to have such dog inoculated with an anti-rabic vaccine approved by the director of public health, which inoculation shall be repeated as often as the director of public health may from time to time specify. The expense of inoculation of dogs against rabies shall be borne by the owners of such dogs. The inoculation shall be made by any licensed veterinarian. A certificate of vaccination shall be presented by the veterinarian within 10 days after inoculation. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-38.1 Inoculation of cats against rabies.

(a) It shall be the duty of every resident of the city owning or in possession of a cat four months old or older within the city to have such cat inoculated with an anti-rabic vaccine approved by the director of public health, which inoculation shall be repeated as often as the director of public health may from time to time specify. The expense of inoculation of cats against rabies shall be borne by the owners of such cats. The inoculation shall be made by any licensed veterinarian.

(b) At the time of vaccination, a suitable and distinctive rabies tag and a certificate of vaccination shall be issued by the veterinarian to the cat's owner. The certificate shall certify that the cat in question has been vaccinated in accordance with this section. Such certificate shall show the date of vaccination, the rabies collar tag number, the date of required immunization, a brief description of the cat and its sex and breed, and the name of the owner. The certificate issued under this section shall be carefully preserved by the owner of the cat and exhibited promptly upon request for inspection by an animal control officer, a public health officer or any other law enforcement officer. One copy of the certificate required under this section shall be retained by the veterinarian and one copy shall be presented by the veterinarian to the health department for registration within 10 days after inoculation. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-39 Procedure as to dogs and cats suspected of having rabies.

Dogs and cats suspected of having rabies and exhibiting the common symptoms of this disease shall be impounded either at the animal shelter or at a private veterinarian's establishment in solitary confinement and kept under observation for a period of 10 days. At the time any dog or cat is impounded, an attempt shall be made by an animal control officer to determine whether the dog or cat has been previously inoculated against rabies. If it is found that the dog or cat has not been effectively inoculated or there is any doubt as to whether or not the dog or cat has in fact been inoculated, then the dog or cat shall be inoculated on the last day of the above-mentioned observation period. The director of public health is hereby given authority to cause to be destroyed any dog or cat which in his opinion has rabies, and to have the head of the dog or cat examined. All expenses in connection with the provisions of this section shall be borne by the owner of the dog or cat in question. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-40 Reports of animal bites.

(a) The owner of any animal which bites a person shall immediately notify an animal control officer, the health department or the police department of the biting.

(b) It shall be the duty of every physician and medical practitioner in the city and of every hospital in the city to report to an animal control officer or the health department the name and

address of any person treated for bites or wounds inflicted by animals, together with all available information necessary for rabies control.

(c) It shall be the duty of every veterinarian practicing in the city to report to an animal control officer or the health department the name and address of the owner of any animal treated for bites or wounds inflicted by any other animal, together with all available information necessary for rabies control. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-41 When muzzles required, exception.

Whenever it becomes necessary to safeguard the public from the danger of hydrophobia, the city manager, with the written approval of the director of public health, may issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises, unless the dog shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog running at large during the time covered by the proclamation shall be seized and impounded. This section shall not be construed to prevent the owner of a dog or the agent of the owner from taking the dog unmuzzled from the premises of the owner, if the dog is upon a leash. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-42 Female dogs in season; allowing dog to urinate, etc.; noisy dogs; offensive odors from dogs; dogs prohibited on posted playground areas and on school grounds.

The following conduct is declared a nuisance and is prohibited. It shall be unlawful for the owner of a dog to:

(1) Fail to keep his female dog confined during the entire time the dog is in season in a building or secure enclosure in such a manner that the female dog cannot come into contact with a male dog except for planned breeding.

(2) Knowingly or willfully allow his dog to urinate or defecate on the private property of other persons without their consent or that of the authorized agent of the one having control of the premises.

(3) Knowingly or willfully allow his dog to urinate or defecate on public property; provided, that urination by a dog on curbs of streets and in alleys, streets or areas designated and posted as dog exercise areas in accordance with section 6-1-2.2 shall not constitute a violation of this section; and provided further, that defecation by a dog on public property out of doors shall not constitute a violation of this section if the owner of the dog immediately removes the material defecated and disposes of it in a manner not inconsistent with the provisions of this section.

(4) Keep dogs which bark or howl to such extent as to annoy any resident or keep dogs in such a manner as to cause offensive odors.

(5) Permit his dog, except a seeing-eye, service or hearing dog, to go upon any public property posted by the city manager as a playground area, or upon the grounds of any public school. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4163, 9/27/00, Sec. 3)

Sec. 5-7-43 Powers of operators of animal shelter generally.

The operators of the animal shelter shall have the following powers:

(a) to destroy unredeemed dogs, as provided in section 5-7-34;

(b) to destroy vicious dogs upon an order from the court, as provided in section 5-7-36;

(c) to receive and investigate complaints of and to make determinations regarding vicious and dangerous dogs, as provided in section 5-7-36.1;

- (d) to receive, investigate and act upon requests to rescind or modify dangerous dog permits, gas provided in section 5-7-36.2;
- (e) to impound and release dogs and to issue orders, as provided in section 5-7-37; and
- (f) to destroy dogs as provided in section 5-7-39. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-44 Appointment and powers of chief animal control officer and deputy animal control officers.

A chief animal control officer shall be appointed by city council and may be removed by council or the city manager. The city manager may appoint one or more deputy animal control officers, who may be removed by the manager, to assist the chief animal control officer in the performance of her duties. The chief animal control officer and deputy animal control officers shall, within the city and subject to any limitations imposed as a condition of their appointment, have the powers of an animal control officer as conferred by the Code of Virginia (1950), as amended, the powers of a state game warden as conferred by the city charter in the enforcement of the dog laws of the city, and the power to enforce the provisions of this article and section 6-1-2.2 of this code. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4163, 9/27/00, Sec. 4)

Sec. 5-7-45 Killing certain animals that cannot be safely taken up and impounded.

If any vicious or dangerous dog or any dog, cat or other animal suspected of, or having rabies, found at large, cannot be safely taken up and impounded, the dog or other animal may be slain by any law enforcement officer. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-46 Penalties.

- (a) 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) 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. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-47 License--required; disposition of revenue.

- (a) It shall be unlawful for any person to be the owner of a dog or cat four months old or older within the city unless such dog or cat is licensed, as required by the provisions of this article.
- (b) All dog and cat license taxes collected pursuant to this article shall be paid into the general fund from which sufficient funds for the operation and maintenance of the animal shelter may be provided, as authorized by council. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-48 Same--tax imposed; tax rates; when tax payable.

There is hereby imposed an annual license tax on dogs and cats, except that no license tax shall be levied on any hearing dog, seeing-eye dog or service dog for each calendar year at the following rates, and due and payable as follows:

- (1) For any male or female dog or cat which shall be four months old or older on or before January 31 of the year, the license tax for that year shall be \$30 for a dog, and \$10 for a cat, and shall be paid by the owner on or before January 31 of said year;
- (2) If any male or female dog or cat shall become four months of age, or if a dog or cat of that age or older shall come into the possession of an owner, between January 31 and November 1 of any year, the license tax for that year shall be \$30 for a dog, and \$10 for a cat, and shall be paid by the owner within 10 days of the dog or cat attaining the age of four months or coming into the possession of the owner;
- (3) If any male or female dog or cat shall become four months of age, or if a dog or cat of that age or older shall come into the possession of an owner, after October 31 of any year, the license tax of \$30 for a dog, and \$10 for a cat, for the succeeding calendar year shall be paid by the owner within 10 days of the dog or cat attaining the age of four months or coming into the possession of the owner;
- (4) For any spayed or neutered dog or cat, the provisions of this section shall apply but the annual license tax shall be \$10 for a dog, and \$2 for a cat; and
- (5) If any dog or cat coming into the possession of an owner on or before October 31 of any year has a current license in another jurisdiction, a full credit shall be allowed on the cost of obtaining the first city license. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4163, 9/27/00, Sec. 5)

Sec. 5-7-49 Same--application; issuance; records to be kept.

Any owner may obtain a dog or cat license by making a signed written application to the city manager or her designee. The application shall contain the name, sex, age, breed and description of the dog or cat and the name and address of the owner, and shall be accompanied by the amount of the license tax and a certificate of vaccination from a licensed veterinarian showing that the dog or cat is inoculated against rabies, or a certification from the owner containing the vaccination number showing that the dog or cat is inoculated against rabies. Upon receipt of a proper application, accompanied by the amount of the license tax and a proper certificate of vaccination, or a proper certification from the owner, the city manager or her designee shall issue a license receipt and an appropriate tag to the owner, and shall record upon the receipt and upon records maintained by the city the name and address of the owner, the date of issuance, the year for which issued, the serial number of the license and the sex, age, breed and description of the dog or cat. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-50 Same--components; information to be on tags.

A dog or cat license shall consist of the receipt referenced in section 5-7-49 and a tag of a style adopted by the city. A tag shall be stamped or otherwise permanently marked to show the serial number, the calendar year for which issued and the name of the city. (Ord. No. 4007, 6/13/98, Sec. 1; Ord. No. 4101, 1/22/00, Sec. 7)

Sec. 5-7-51 Same--preserving and displaying receipts; dogs to wear tags.

Dog and cat licenses shall be carefully preserved and exhibited promptly upon request of any law

enforcement officer, authorized agent of the director of public health, or animal control officer. Dog license tags shall be securely fastened by the owner to a substantial collar which shall be borne by the dog. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-52 Same--duplicate tags.

If a dog or cat license tag is lost, destroyed or stolen, the owner shall at once apply to the city manager or her designee for a duplicate license tag, presenting the original license receipt, if available. Upon affidavit of the owner that the original license tag has been lost, destroyed or stolen, the city manager or her designee shall issue a duplicate license tag which the owner shall immediately affix to the collar of the dog. The city manager or her designee shall endorse the number of the duplicate and the date issued on records of her office and on the face of the original license receipt, if available. The fee for a duplicate tag shall be \$1. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-53 Same--effect of a dog or cat not wearing collar bearing a tag.

Any dog or cat not wearing a collar bearing a license tag of the proper calendar year shall be presumed to be unlicensed, and in any proceedings under this article the owner of such dog or cat shall have the burden of proving that the dog or cat is in fact licensed. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-54 Same--maintenance of records.

The city manager or her designee shall keep orderly lists and accounts with respect to receipts, disbursements, licenses issued, and how unsold tags are disposed of, and annually shall provide an accounting of her activities with respect to dogs and cats and dog and cat licenses for use by the director of finance. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-55 Same--transmittal of funds to director of finance.

All persons responsible for the issuance of dog and cat licenses and the collection of license taxes shall keep accurate records and shall transmit all funds collected to the director of finance at least every 30 days. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-56 Making false statement to secure license.

It shall be unlawful for any person to make a false statement in order to secure a dog or cat license. (Ord. No. 4007, 6/13/98, Sec. 1)

Sec. 5-7-57 Limitation on number of dogs and cats kept per dwelling unit.

(a) It shall be unlawful for any person to keep more than three dogs over four months of age or four cats over four months of age in any dwelling unit in the city.

(b) Any person who, on October 1, 1995, is lawfully keeping more than the number of dogs and cats permitted by this section shall be entitled to continue to keep all such dogs and cats, so long as they are duly licensed and inoculated in accordance with this article. However, it shall be unlawful for any such person to keep any dog or cat acquired after October 1, 1995, unless the total number of dogs and cats kept by the person does not exceed the number of dogs and cats permitted by subsection (a) of this section.

(c) This section shall not apply to any person authorized to operate a "kennel," as that term is

defined in the City of Alexandria Zoning Ordinance. (Ord. No. 4007, 6/13/98, Sec. 1)
Secs. 5-7-58 through 5-7-70 reserved.

Sec. 6-1-2.2 Same--dog exercise areas; designation by city manager; prohibited conduct.

(a) As used in this section:

(1) Commercial dog handler shall mean any person who boards, keeps, handles or walks dogs owned by another person for compensation.

(2) Dog exercise area shall mean an area of open space, owned or controlled by the city and fenced or unfenced, which has been designated and posted as a dog exercise area by the city manager, pursuant to this section.

(3) Owner shall mean any person having a right of property in a dog, and any person who keeps or harbors a dog or has it in his care or control, or who acts as its custodian, including, but not limited to, a commercial dog handler, and any person who permits a dog to remain on or about any premises occupied by him.

(b) The city manager may designate and post dog exercise areas in the city, in accordance with the provisions of this section and of the "Dog Exercise Areas and Fenced Dog Parks Master Plan," adopted by city council on September 27, 2000, as such provisions may be amended by the council from time to time.

(c) Within a dog exercise area, dogs under the care, custody and control of an owner are permitted to run free, without a leash, lead or other restraint, but subject to the provisions of this section, and to any rules or regulations promulgated by the city manager pursuant to this section, and applicable within such dog exercise area.

(d) No such owner shall have in a dog exercise area:

(1) more than three dogs;

(2) a dog that is not in such owner's view and under his or her voice control;

(3) a dangerous dog as defined in section 5-7-31(c);

(4) a vicious dog as defined in section 5-7-31(l);

(5) a female dog in season;

(6) a dog that is less than 4 months old;

(7) if such owner is a resident of the city, a dog that is not inoculated and licensed in accordance with sections 5-7-38 and 5-7-47 of this code;

(8) if such owner is not a resident of the city, a dog that has not been inoculated with an anti-rabic vaccine that is in accordance with the latest edition of the "Compendium of Animal Rabies Control" issued by the National Association of State Public Health Veterinarians, Inc., and evidence that such dog has been inoculated.

(e) No child less than 16 years of age shall be permitted in a dog exercise area which is fully enclosed by a fence unless accompanied by an adult.

(f) The city manager may promulgate such additional rules and regulations, not inconsistent with the provisions of this section and of the "Dog Exercise Areas and Fenced Dog Parks Master Plan," as he deems necessary and appropriate to implement or enforce the provisions of this section.

(g) The director of recreation, parks and cultural activities shall cause one or more signs to be posted in a visible location in any dog exercise area. Such signs shall inform the public of the existence of the dog exercise area, the geographic limits of the area, the limitations imposed by subsection (d), subsection (e) if applicable, and such other rules and regulations promulgated by the city manager as may be applicable.

(h) Any person who violates any provision of this section shall be liable for a class four civil penalty, as prescribed in section 1-1-11 of this code. (Ord. No. 4162, 9/27/00, Sec. 1)

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12-11-01

Introduction and first reading: 11/13/01
Public hearing: 11/17/01
Second reading and enactment: 12/11/01

INFORMATION ON PROPOSED SUBSTITUTE 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 (DOG DEFECATION 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 substitute ordinance permits the enforcement of restrictions on dogs in public parks and playgrounds by uniformed city employees designated by the city manager. Under existing law, such regulations may be enforced only by law enforcement officers and animal control officers. In addition, the proposed substitute ordinance establishes a uniform civil penalty of \$50 for all civil violations relating to dogs, except in City parks, where running at large, allowing a dog off leash outside a designated exercise area, and failing to clean up after a dog, are punishable by a \$100 civil penalty. Finally, the proposed ordinance clarifies the authority of any uniformed 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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12-11-01

SUBSTITUTE 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 (DOG DEFECACTION 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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee's department, office or agency, and "identification" shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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 Dog defecation 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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee's department, office or agency, and "identification" shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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 of the city who is (1) responsible for the enforcement of any provision of this code, (2) wearing a uniform and (3) carrying identification, may stop approach 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. As used in the paragraph “uniform” shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee’s department, office or agency, and “identification” shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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: 12/11/01
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. Bold and underlined typeface denotes material that is new or amended by the substitute ordinance. Bold typeface with strike-outs or dashes denotes material that is being deleted by the substitute ordinance.

**City of Alexandria Website Contact Us - EMail for Phil Sunderland
(phil.sunderland@ci.alexandria.va.us)**

Time: [Tue Dec 11, 2001 11:00:21] **IP Address:** [12.27.33.3]

First Name: Andrew
Last Name: Palmieri
Street Address: 115 N. Lee Street, #402
City: Alexandria
State: VA
Zip: 22314
Email Address: afpalmieri@vssp.com
Comments: I understand that the City Council will be addressing the matter of dog leash laws this evening. Specifically, a proposed amendment to the City Ordinance pertaining to penalties attributable to individuals who violate the City's leash laws, permitting their dogs to be off-leash in areas outside designated dog exercise parks.

This email is in support of strong penalties, as provided in the proposed amendment, and strict enforcement of the City's leash laws. I have heard many pleas from citizens, both dog owners and non-dog owners, on this matter, and I contend that this is actually a simple issue.

The dog leash dilemma is a microcosm of our society's failure to respect a balance of rights and obligations under the law. A small, but vocal, group of dog owners desire to permit their dogs to run free on our City streets and parks. In response to this plea, the City endorsed a dog park plan, affording more than reasonable accommodation to this request, by creating dog exercise areas throughout the City's park system. Despite this accommodation, many dog owners permit their dogs to run untethered outside these designated areas.

As a dog owner myself, I find this behavior disrespectful, not to mention the fact that it is violative of City law. This aberrant behavior must be curtailed. While I respect and support the concept and application of dog exercise parks, the City should take affirmative measures to ensure the rights of the vast majority of citizens using the parks, who do not wish to encounter loose dogs and dog excrement.

For example, if I walk my small 18 pound dog in the southern end of Founder's Park or in Waterfront Park so as to avoid loose dogs, my right to enjoy these parks should be unimpinged. Instead, I routinely encounter loose dogs and dog owners

Lastly, there are many citizens who are intimidated by loose dogs and avoid the pleasures of our City's parks and waterfront for fear of confrontation with both loose dogs and potentially hostile owners. The City should protect these citizens and provide reassurance that they parks will be safe for their enjoyment.

In short, we are a society of laws. If we permit individuals to choose to ignore laws that they deem to be insignificant or inconvenient, we, as a society, pave a slippery slope to anarchy. The City Council must send a signal to its citizens that, while it is dog friendly and endorses dog parks, it represents all of Alexandria's citizens and the rights of all to enjoy the City's parks under specific laws that must be obeyed to ensure fairness to all park users. Strong fines and strict enforcement are essential to this message.

Thank you and have a happy holiday.

Andrew F. Palmieri

58 E. Rosemont Ave.
Alexandria, VA 22301
(703) 836-2656
December 8, 2001

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12-11-01

✓ Mayor Kerry J. Donley
Vice Mayor William C. "Bill" Cleveland
Councilwoman Claire M. Eberwein
Councilwoman Redella s. "Dell" Pepper
Councilman William D. Euille
Councilman David G. Speck
Councilwoman Joyce Woodson
301 King Street
Alexandria, VA 22301



Dear Mayor and City Council members:

I am writing in regard to the proposed ordinance regarding leash law enforcement that was discussed at the November 17, 2001, City Council meeting and which is to be considered again at the upcoming December 12, 2001, meeting. I would like to thank all members of the Council for being open to the suggestions and concerns raised by myself, my neighbor Cathy Finley and other citizens.

Because I will be out of town and unable to attend the upcoming meeting, I wanted to reiterate a few of the issues that I hope will be resolved before any form of this proposal would be approved. As an attorney who works in law enforcement (and I write this only in my personal capacity), I find several provisions of this proposal to be alarming.

First, the fines proposed in the original legislation are excessive. Fines for this *civil* violation should be kept reasonable and proportionate – to other penalties imposed in Alexandria and the Commonwealth, and to the nature of the violation itself. There is also no need to have the fine escalate after the first “offense”. If the city does attempt to impose exorbitant, quasi-criminal fines, more residents will be likely to fight alleged violations in court, and city resources will only be drained. A flat, reasonable fine is appropriate.

Second, and perhaps even more important, city park employees should not be “deputized” to enforce these provisions. Part-time law enforcement officers are a recipe for disaster. Animal control officers have the training, experience, and focus of task to enable them to enforce these types of ordinances with skill and fairness. They are also visible and easily identifiable to residents. A park employee who spends most of his or her day cutting grass, removing trash, or performing similar tasks does not make a good law enforcement officer, particularly where animals are involved. Deputizing park employees may seem like a cheap solution in the short run, but in the long run it is likely to lead to legal headaches for the city. If the city truly needs additional enforcement resources, the solution should be to add animal control officers.

Third, the proposed language needs to be clarified. For example, the proposal seems to say that a park employee can approach – and issue a citation against – any individual who fails to give information about an alleged violation, even if it concerns a third party. This would mean that a neighbor who happened to be using the park at the same time as an alleged violator could be put in a difficult and perhaps unsafe position. The proposal also makes it a violation to have one’s pet defecate in a public park – and then provides for the owner to *remedy* the violation by removing the waste and immediately disposing of the waste in an “appropriate” trash container. The language should be changed to read that the elements of a violation are satisfied only when the pet owner fails to remove the waste. (And for that violation, I am all in favor of enforcement!)

Thank you for considering these matters. Please contact me at (703) 836-2656 (h) or (202) 353-9707 (w) if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Tucci', written in a cursive style.

Elizabeth Tucci

Dear Kerry :

Charles Hamel
101 Quay Street
December 9, 2001

Received by CC

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12-11-01

TO: The Honorable Mayor Kerry Donley and Honorable Members of City Council

Last year I attended the Council meeting that was definitively solving the "off-leash dog issue". I understood Animal Control, the Police, along with Parks and Recreation staff were to issue citations to owners of off-leash dogs. The law was to be enforced and strollers on Alexandria sidewalks and in the Parks would be protected. Thereafter a Police Lieutenant addressed the Waterfront Committee, promising that Police Officers would be instructed to enforce the law and issue citations.

However, elderly citizens must continue to beware of walking through the Park. Parents must continue to pick up their tots when loose dogs approach. For all intents and purposes, this City has no effective "law" in this regard.

At one time this morning there were four (4) loose dogs scampering through Founders Park between Quay and Queen. Another was defecating in the Volley Ball Court (and children's sand box). Still another was East of Princess, between the path and water's edge. One woman picked up her little leashed dog and left the Park when two larger dogs came to "visit" her pup. Yesterday a very large German shepherd trotted freely from Queen to Oronoco. A man with a large animal daily walks down our streets to the Park without even carrying a leash.

One afternoon I watched five little girls from the Berg having a delightful time dancing around the five sided bench beside the Chasnovitz Memorial Garden. A super size breed Dalmation was disturbed by the noisy girls and came bounding through the Memorial bushes, barking and chasing the girls. They were screaming in fear, taking cover between the benches. One cried that she was bitten. I ran over and chased the dog away... while its owners were calling for the dog from afar, at Queen Street intersection. I assumed the dog may have only brushed her as I could find no trace of a bite. As I walked away, another large brown freely roaming animal came through the Memorial. The girls started screaming in fear and again seeking protection between the benches. The dog circled around them barking, playfully I suspect..

I spotted and hailed a cruising patrol car at Union and Quay. The dog's owners heard me ask the Police for assistance and walked hurriedly North along the waters edge... without a leash. The Officer plaintively asked me what I wished he would do, since he "knew of no instructions" regarding what to do with owners of dogs off leash. The City of Marysville, Washington periodically notifies us in the mail that the police will issue citations for owners of off-leash dogs. The Marysville Lieutenant told me they have no problems. **IT IS VERY SIMPLE! Everyone is well aware of the City Government's intent, the law is enforced, and the Police are therefore seldom obliged to address the issue.** If you believe Alexandria has many dogs, virtually all our Marysville neighbors own at least one, if not two dogs, but they are not off-leash terrorizing the citizenry.

I find it peculiar that our City Government refuses to enforce its laws and return to us a little quality of life in our East-end community and the Park. The City's shoddy, designated dog exercise area has proven to be a complete failure. I'm sorry that those cute little law abiding, fun seeking girls, have never ventured back to the Park for healthy play. A sad commentary as to the "fun-side of the Potomac".

I'm sorry for you all, but the ball is really in your court. Good luck!

Chuck

Regards
Chuck



ORDINANCE NO. 4228

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 (DOG DEFECATION 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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee's department, office or agency, and "identification" shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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 Dog defecation 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 who is (1) specifically designated by the city manager, (2) wearing a uniform and (3) carrying identification may enforce the provisions of this section in accordance with the procedures set forth in section 5-7-46. As used in the subsection "uniform" shall mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee's department, office or agency, and "identification" shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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.

(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.

(c) 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 of the city who is (1) responsible for the enforcement of any provision of this code, (2) wearing a uniform and (3) carrying identification, may approach 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. As used in the paragraph "uniform" shall

mean a shirt, jacket or coat on which is permanently displayed and visible the seal of the city together with the name of the employee's department, office or agency, and "identification" shall mean a card or badge issued by the city to identify the employee by name and photograph, or badge number, and indicate that the employee is an authorized enforcement officer.

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

KERRY J. DONLEY
Mayor

Final Passage: December 11, 2001