

EXHIBIT NO. 1

32
6-15-02
~~36~~
6-11-02

MEMORANDUM

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA *IBP*
CITY ATTORNEY

STEVEN L. ROSENBERG *SLR*
SENIOR ASSISTANT CITY ATTORNEY

DATE: JUNE 5, 2002

SUBJECT: PROPOSED ORDINANCE CLARIFYING THE REQUIREMENT THAT DOGS IN THE CITY BE KEPT UNDER PHYSICAL RESTRAINT

Issue: Consideration of an ordinance clarifying the city's "leash law" to provide that, except in a dog exercise area, or on private property with the consent of the owner, a dog must be kept on an actual leash held by a responsible person physically capable of restraining the dog.

Recommendation: That council pass the proposed ordinance on first reading, and set the ordinance for public hearing, second reading and final passage on June 15, 2002.

Discussion: In a case last month, the Alexandria General District Court found that control of a dog by use of a remote controlled electronic collar, which allowed the dog owner to administer an electric shock from a distance to achieve desired behavior of the dog, satisfied the requirements of the city's leash law. The law, as currently in effect, requires that a dog be restrained 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 is held by a responsible person capable of physically restraining the dog." The court determined that the electronic collar was a means of physical restraint, as contemplated by the city ordinance, despite our argument that the most recent amendments to the ordinance, enacted in 2000, were intended to prohibit "voice control," and other training-based methods of restraint, as a substitute for a direct physical connection between a dog and its owner.

In order to reverse the court's ruling, we have drafted an ordinance to clarify that dogs in the city must generally be restrained by the use of a leash. The language of the proposed ordinance is consistent with National Park Service regulations applicable in Jones Point Park and uniformly in other NPS facilities throughout the United States.

Attachments

cc: Philip Sunderland
City Manager

Michele Evans
Assistant City Manager

Lieutenant Jack Compton
Alexandria Police Department

Mary Phelan, Director
Animal Shelter

Sandra Whitmore, Director
Department of Recreation, Parks, and
Cultural Activities

32
6-15-02

~~30~~
~~6-11-02~~

Introduction and first reading: 6/11/2002
Public hearing: 6/15/2002
Second reading and enactment: 6/15/2002

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Section 5-7-31 (DEFINITIONS), 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 Section 5-7-35 (KEEPING DOGS UNDER PHYSICAL RESTRAINT) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), and to amend and reordain Section 6-1-2.2 (SAME--DOG EXERCISE AREAS; DESIGNATION BY CITY MANAGER; PROHIBITED CONDUCT) of Chapter 1 (GENERAL PROVISIONS) of Title 6 (PARKS, RECREATION AND CULTURAL ACTIVITIES), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance clarifies the city's animal control regulations to provide that, except in a dog exercise area, or on private property with the consent of the owner, a dog must be kept on a leash held by a responsible person physically capable of restraining the dog.

Sponsor

None

Staff

Lieutenant Jack Compton, Alexandria Police Department
Mary Phelan, Director, Animal Shelter
Sandra Whitmore, Director, Recreation, Parks, and Cultural Activities
Steven L. Rosenberg, Senior Assistant City Attorney

Authority

§ 2.04(p), Alexandria City Charter
§§ 3.1-796.93, 3.1-796.94 and 3.1-796.95, Code of Virginia (1950), as amended

Estimated Costs of Implementation

None

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

None

32
6-15-02

~~30~~
~~6-11-02~~

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Section 5-7-31 (DEFINITIONS), 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 Section 5-7-35 (KEEPING DOGS UNDER PHYSICAL RESTRAINT) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), and to amend and reordain Section 6-1-2.2 (SAME--DOG EXERCISE AREAS; DESIGNATION BY CITY MANAGER; PROHIBITED CONDUCT) of Chapter 1 (GENERAL PROVISIONS) of Title 6 (PARKS, RECREATION AND CULTURAL ACTIVITIES), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That section 5-7-31 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. 5-7-31 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 (i) attached to the dog, (ii) not harmful or injurious to the dog, and which is (iii) 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.

Section 2. That section 5-7-33.1 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. 5-7-33.1 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 (i) attached to the dog, (ii) not harmful or injurious to the dog, and ~~which is~~(iii) held by a responsible person capable of physically restraining the dog, or it is in a designated and posted dog exercise area, as provided in section 6-1-2.2 of this code.

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

Section 3. That section 5-7-35 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. 5-7-35 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 (i) attached to the dog, (ii) not harmful or injurious to the dog, and ~~which is~~(iii) 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.

(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~~.

Section 4. That section 6-1-2.2 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. 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.

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

KERRY J. DONLEY
Mayor

Introduction: 6/11/02
 First Reading: 6/11/02
 Publication: 6/13/02
 Public Hearing: 6/15/02
 Second Reading: 6/15/02
 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.



EXHIBIT NO. 2

32
6-15-02

~~30~~
~~6-11-02~~

4101 Eisenhower Avenue Alexandria, Virginia 22304

Phone: 703-838-4774

Fax: 703-838-4862

www.alexandrianimals.org

June 10, 2002

Honorable Mayor and Members of City Council
Suite 2300
City Hall
301 King Street
Alexandria, VA 22314

RE: Docket Item #30, June 11, 2002 City Council Meeting

Dear Honorable Mayor and Members of City Council:

I am writing to you as President of the Board of Directors of the Animal Welfare League of Alexandria. The League is a nonprofit, 501(c)(3) corporation that contracts with the City of Alexandria to operate the City's animal shelter and to manage the City's animal control officers.

The Board of Directors is concerned because recent statements in the press and elsewhere have implied that the League has been advocating for the revision of the City's leash law ordinances, the subject of Docket item #30 for Council's meeting on Tuesday, June 11, 2002. Consistent with its 501(c)(3) status, the League does not engage in advocacy for or against any proposed legislation. Any statements to the contrary were never authorized by the League and its Board of Directors, nor were we aware of the statements previously.

The League takes great pride in its long and beneficial relationship with the City, and the animal control officers under our supervision will continue diligently to enforce any animal control ordinances that the City enacts.

Thank you for your consideration.

Respectfully,

Kevin Byrne
President
Animal Welfare League of Alexandria

cc: City Manager Phil Sunderland
City Attorney Ignacio Pessoa

