



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 16, 2013

Agenda Item 8-B
Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance [Signature]

Department: Beaches, Parks and Recreation
Prepared By: Sharon Heider, Beaches Parks & Recreation Director

Subject: *AMENDMENT TO SAN CLEMENTE MUNICIPAL CODE SECTION 6.08.120, EXCRETA NUISANCE PROHIBITED*

Summary: On January 22, 2013, City Council directed staff to prepare an amendment to the San Clemente Municipal Code (SCMC) to increase the fine for dog waste violations from \$50 to \$100. In response to Council's request, staff reviewed existing fines for animal related violations, as well as reviewing enforcement practices specifically related to dog waste. As a result, Staff is recommending the following:

1. Amend SCMC §6.08.120 - *Excreta Nuisance Prohibited* (animal waste), deleting the last sentence which states "Any owner or person found in violation of this section shall be fined fifty dollars (\$50.00), payable to the City of San Clemente for each violation." (Attachment #1)

Background: A complete background is contained in the report presented to Council on January 22, 2013 (Attachment #2).

Discussion: Because of the confusing nature of multiple municipal codes or procedures, following is a brief discussion of fine amounts and how they are applied.

There are often multiple fine amounts set for certain violations of the San Clemente Municipal Code (SCMC). Animal waste is one of these. The main differences in the fine amount are based on what type of citation form is used (including how they are processed) and whether it's a first offense or not. In San Clemente, two different citation forms or types are commonly used.

The first type of citation form is a "Notice to Appear." This is the one that most people picture when they think of a traffic ticket and are processed through the court system.

The second type of citation is written on an "Administrative Citation" form. These are processed by a company and any hearings are held in San Clemente. These do not normally go through the court system (unless there's a hearing and the ruling is challenged). In San Clemente, Administrative Citations are most commonly used by Code Enforcement Officers - but are also used by San Clemente Sheriffs, Animal Control, and Marine Safety. These enforcement officers have the option of using either type of form (a Notice to Appear or Administrative Citation). However, in practice Administrative Citations are normally used for animal waste violations as part of internal policy by Animal Services (the primary enforcers of animal violations per SCMC). Also by internal policy, Marine Safety and Sheriff personnel normally use this type of citation for similar types of violations on the beach as well.

Administrative Citations have a fine amount at an amount of up to \$100 for the first offense, unless specifically reduced (per SCMC §1.20.070 – *Administrative Fine*). In follow-up to Council's request, since Administrative Citations used for animal waste violations, fine amounts do not need to be adjusted since they are already set at \$100 in the municipal code. But to help avoid or reduce confusion, staff is recommending that a sentence in SCMC §6.08.120 - *Excreta Nuisance Prohibited*, stating that the fine amount is \$50, be removed.

Recommended

Action: STAFF RECOMMENDS THAT the City Council: Introduce ordinance number _____, titled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 6.8, ANIMAL REGULATIONS GENERALLY, OF THE SAN CLEMENTE MUNICIPAL CODE.

Fiscal Impact: Revenue impact is unknown at this time.

Attachments: 1. Amendment to the San Clemente Municipal Code
2. January 22, 2013 Agenda Report: "Increased Dog Access to Parks – Phase 1"

Notification:

SB-2

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 6.8, ANIMAL REGULATIONS GENERALLY, OF THE SAN CLEMENTE MUNICIPAL CODE

WHEREAS, enforcement officers working for the City of San Clemente normally issue Administrative Citations for violations of Section 6.08.120, Excreta Nuisance Prohibited, of the San Clemente Municipal Code; and

WHEREAS, fine amounts for Administrative Citations are set in Section 1.20.070, Administrative Fines, of the San Clemente Municipal Code at \$100 for the first offense; and

WHEREAS, the last sentence in Section 6.08.120 of the San Clemente Municipal Code currently states that fine amounts are \$50; and

WHEREAS, the City of San Clemente desires consistency between fine amounts set in Section 1.20.070, Administrative Fines, and Section 6.08.120, Excreta Nuisance Prohibited within the San Clemente Municipal Code.

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby ordains as follows:

Section 1: Section 6.08.120 of the San Clemente Municipal Code is hereby amended to read in its entirety as follows:

Section 6.08.120. Excreta nuisance prohibited.

It shall be unlawful for the owner or person having charge, custody or control of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance by leaving its excreta and to allow such nuisance to therefore remain on any public sidewalk, public park or any other public property or on any improved private property other than that of the owner or person who has custody or control of such animal.

Section 4: The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

SB-4



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
 Meeting Date: January 22, 2013

Agenda Item QA
 Approvals: _____
 City Manager [Signature]
 Dept. Head [Signature]
 Attorney _____
 Finance _____

Department: Beaches, Parks and Recreation
Prepared By: Sharon Heider, Beaches Parks & Recreation Director

Subject: *INCREASED DOG ACCESS TO PARKS – PHASE 1.*

Summary: On March 6, 2012, the City Council directed staff to develop a phased/pilot program to allow dogs in city parks and to identify appropriate locations for the development of dog runs in existing parks. Allowing dogs in parks is a relatively easy shift in practice that includes rule changes, CEQA documentation which was completed as a Negative Declaration some signage, but no large capital expenses. The development of dog runs will be a more long-term effort requiring amendments to existing park master plans, site analysis, cost estimating, CEQA, and expenses that will require funding through the Capital Improvement Program. Therefore, access to City parks is brought forward now and dog runs will be part of the Capital Improvement Program process.

In response to City Council’s desire to make the City’s parks more open to dog access, the Beaches, Parks and Recreation Commission reviewed the topic at its July 10, 2012 meeting and recommended that City Council (1) Adopt a Resolution approving an expansion of the designated City public parks where dogs are permitted on-leash and Negative Declaration, in accordance with San Clemente Municipal Code Section 6.08.020(A), and (2) approve the, “Pick up the Poop” public service announcement, and (3) direct staff to amend the applicable Municipal Code sections to increase the fine for not cleaning up dog waste from \$50.00 to \$250.00.

Background: In 1989, the then-named Parks and Recreation Commission reviewed the City ordinance that did not allow dogs in any parks or at the beach and recommended that the existing prohibition on dogs in parks and on the beach remain in place. Council upheld the existing prohibition of dogs in parks.

In September 1994, the Parks and Recreation Commission reviewed the current City ordinance and received extensive public input on both sides of the issue and recommended that the existing prohibition remain in place. Council upheld the Commission recommendation. However, the Commission decided to look into alternative options for dogs, such as a dog exercise area somewhere in the City where dogs could exercise off-leash. A citizens’ group was formed called “Friends Improving Dogs Options” (FIDO). Two members of the Commission were selected to join FIDO in solidifying a consensus that would be reviewed by the Commission and forwarded to Council for action.

On January 4, 1995, the Commission recommended Council provide direction regarding (1) investigating relaxing the current City Ordinance prohibiting dogs in parks, (2) investigating options of creating a dog exercise area somewhere in the city where dogs can be exercised off leash, or (3) placing no further efforts in this issue. No action was taken by Council.

On February 13, 2001, Council requested the Parks and Recreation Commission consider whether dogs should be allowed in City parks. As a result, the Commission created a sub-committee to research and study options.

On October 10, 2001, as a result of the Commission recommendation derived from the sub-committee report, Council conceptually approved the development of a permanent off-leash dog park at Richard T. Steed Memorial Park and changed the City ordinance at that time to allow currently-licensed dogs on-leash in Verde, Mira Costa, and Calafia Beach Parks for a two-year test period with oversight by the Commission and quarterly reports. (Note: Calafia Beach Park was a city-operated and maintained park but is now under the jurisdiction of the State Parks System since the 20-year lease with the State expired).

On February 6, 2002, Council approved the development of a permanent off-leash dog park at Richard T. Steed Memorial Park and approved changing the current ordinance to allow currently-licensed dogs on-leash in Verde, Mira Costa, and Calafia Beach Parks for a two-year test period.

On June 10, 2003, the Commission considered, by petition from Talega residents, Talega Park as an add-on to the three parks that allow dogs on-leash if the test of the three parks was determined successful. The Commission agreed to request that City Council consider opening Talega Park to dogs' on-leash if the two-year test period was a success. (The two-year test period was successful and ended in May 2004.)

On September 14, 2004, Council adopted a resolution that allowed currently licensed, on-leash dogs in Calafia, Mira Costa and Verde Parks.

On October 14, 2008, the Commission created a Dog Access Sub-Committee to evaluate dog access in parks and beaches.

On December 8, 2009, the Commission's Dog Access Sub-Committee submitted a progress report to the Commission.

On February 17 and February 26, 2011, the Dog Access Sub-Committee hosted two public workshops to solicit input on this item.

Mira Costa and Verde Parks became the only City operated park facilities that offer dog access as Calafia Park is now operated by the State of California. Calafia currently allows dogs on-leash except on the beach. The City's Baron Von Willard Dog Park allows off-leash dogs. Dogs on-leash are allowed on City trails.

On October 4, 2011 and December 13, 2011, the Commission considered increased access to parks and a phased program for Beach access.

SB-C

On March 6, 2012, the City Council directed staff to (1) develop a program to allow dogs on-leash at all City parks, (2) consider a pilot/phased approach and availability of some sports fields, with attention to the Vista Hermosa Sports Park and trail, and (3) return to the Beaches, Parks and Recreation Commission and City Council with the understanding that the City is open to expanding dog presence in the park system; and (4) identify locations for new dog runs in existing parks, and (5) return to the Beaches, Parks and Recreation Commission and City Council for possible amendments to existing park master plans, CEQA documentation, and amendments to Municipal Codes, with the understanding that the City is open to allowing more dogs and their owners to enjoy the park system.

Discussion: Staff reviewed the existing parks with regard to use, location, and need for immediate dog access. The City currently has 21 parks, and after review, staff recommends ten for first phase dog access (two parks, Verde and Mira Costa already allow dogs). These parks were selected as they are more passive in use, are dispersed somewhat equally throughout the city, and/or serve high density areas. These parks are:

- Bonito Canyon Bicentennial Park
- Leslie Park
- Linda Lane Park
- Max Berg Plaza Park
- Marblehead Inland
- Mira Costa Park (dogs currently allowed)
- Parque Del Mar (excluding Park Semper Fi special use area)
- Rancho San Clemente Park
- San Luis Rey Park
- Talega Park
- Tierra Grande Park
- Verde Park (dogs currently allowed)

In addition, staff recommends that the Community Center lawn area, although not defined as a park but rather a special use area, also be open to dogs. This area currently has high use by dog walkers, is in an area with higher density, and not proximate to a park.

After the initial phase opening, staff will monitor complaints and infractions to determine if the other more active parks would be appropriate for dog use in a second phase of opening, as well as the appropriate placement and design of any dog runs.

Signs and enforcement: Existing parks' signs will need to be modified to reflect the rule changes. Staff estimates the cost to be approximately \$3,500. No additional animal enforcement staffing or hours are part of this proposal.

Dog Bags and Dispensers: There is no standard for providing dog bag dispensers, nor is there information that providing the bags produces any higher compliance in picking up dog waste. Some communities provide them and some do not. There is no research found that correlates the presence of dispensers with higher compliance, the general thinking is that compliance is more successful when there is a culture of peer pressure to pick up waste.

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Currently, the City provides twelve dog bag dispensers on the Beach Trail and expends an average of \$8,892 per year on bags, or \$741 per dispenser per year. Each dispenser costs approximately \$250 to purchase and install. Even with these provisions, there are still individuals who do not pick up after their dogs, and we have received complaints. Should the City wish to install bag dispensers at each of the ten proposed parks, staff estimates approximately 34 dispensers would be needed (number varies per size and type of park). Purchasing and installing 34 dispensers would cost \$8,500, and the annual estimated cost for replacement bags is \$25,194.

While dog bag dispensers are certainly a convenient amenity, they are quite costly to provide rather than requiring dog owners to provide their own. When they are provided, it is common to see individuals removing many bags at a time rather than just what they need. Dog bags are commonly available at pet stores, many dog leashes now come equipped with small dog bag dispensers attached, and the reuse of plastic grocery bags for this purpose is easy as most every purchase creates a bag. Given that dog ownership and access to parks should be both a privilege and responsibility to care for your animal, staff does not recommend the purchase and installation of dog bag dispensers at the parks.

In an effort to assist with compliance in the disposal of dog waste, staff has prepared a short public service announcement that would be aired on various outlets including channel 30, on the City's website, and at the Aquatic Center. Staff recommends that the City Council approve the public service announcement and direct staff to use as an educational tool.

Recommended

Action: Staff recommends that City Council:

1. Adopt a Resolution approving an expansion of the designated City public parks where dogs are permitted on-leash and Negative Declaration, in accordance with San Clemente Municipal Code Section 6.08.020(A).
2. Approve the, "Pick up the Poop" public service announcement.
3. Direct Staff to prepare an Ordinance for future Council consideration that would modify the Code of the City of San Clemente to increase the fine for dog waste violations from \$50.00 to \$250.00.
4. Authorize the transfer of an appropriation in the amount of \$3,500 for signs from the Council Contingency Account (001-203-44900) to Other Maintenance Supplies (001-635-42590).

Fiscal Impact: Council Contingency will be reduced from \$36,500 to \$33,000.

Attachments: 1) Dog Phasing Plan
2) Draft Resolution for Dogs in Parks
3) Municipal Code 6.08.020 – Dogs on Public Property
4) Excerpt from 7/10/12 draft minutes of the BP&R Commission
5) Negative Declaration

Notification: Interested parties

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SB-8