

Meeting Date: April 12, 2011

Agenda Item

29

REQUESTED COMMISSION ACTION:

Consent

X

Ordinance

Resolution

Consideration/
Discussion

Presentation

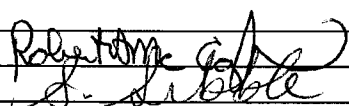
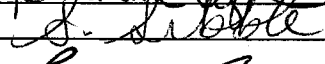
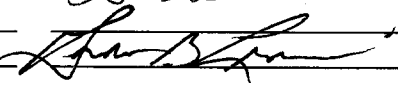
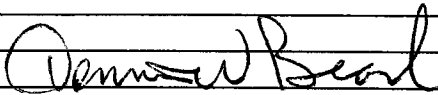
SHORT TITLE

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 90, "ANIMALS," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH BY AMENDING SECTION 90.07, "ANIMAL COMMITTING A NUISANCE," BY DELETING LANGUAGE TO MODIFY ENFORCEMENT PROCEDURES; AMENDING SECTION 90.08, "ANIMALS RUNNING AT LARGE," TO DELETE INAPPLICABLE LANGUAGE; AMENDING SECTION 90.38, "DOG PARK," TO PROVIDE ADDITIONAL REQUIREMENTS FOR USE OF THE CITY'S DOG PARK; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

The primary purpose for this revision is to modify the dog park rules. Prior to the park's opening, the current rules were established by Animal Control with input from the community and a review of other area dog parks. Now that the park has been operational for eight months, we have identified a few additional rules, and a revision to some existing rules. In summary, these rules will enhance safety and enjoyment for park patrons, while allowing more effective enforcement by Animal Control and law enforcement officers. The ordinance revision recommends certain circumstances when unacceptable behavior by dogs or patrons will result in prohibited future use of the park. In addition, this ordinance corrects a few minor issues when the ordinance was previously revised to prohibit tethering of animals.

- (1) Origin of request for this action: Staff
- (2) Primary staff contact: Robert A. McCaughan, Public Works Director Ext. 4097
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Public Works	3/2/2011	Approve	
Finance	3/11/11	Approval	
City Attorney	3/11/11	Reviewed	
<input type="checkbox"/> Advisory Board			
<input type="checkbox"/> Planning Director			
<input type="checkbox"/> Public Works Director			
<input checked="" type="checkbox"/> City Manager			

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration
Workshop		
1 st Reading <u>3/22/11</u>	1 st Reading	Results: _____
APPROVED		Results: _____
2 nd Reading <u>4/12/11</u>		



City Attorney's Communication #2011-670
February 18, 2011

TO: Rob McCaughan, Public Works Director
FROM: Mark E. Berman, Assistant City Attorney
RE: Ordinance Amending Chapter 90, "Animals"

As requested, attached please find the following form of ordinance:

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 90, "ANIMALS," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH BY AMENDING SECTION 90.07, "ANIMAL COMMITTING A NUISANCE," BY DELETING LANGUAGE TO MODIFY ENFORCEMENT PROCEDURES; AMENDING SECTION 90.08, "ANIMALS RUNNING AT LARGE," TO DELETE INAPPLICABLE LANGUAGE; AMENDING SECTION 90.38, "DOG PARK," TO PROVIDE ADDITIONAL REQUIREMENTS FOR USE OF THE CITY'S DOG PARK; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please carefully review the ordinance to ensure that it meets your requirements.


MARK E. BERMAN

MEB/ds
l:cor/pw/2011-670
Attachment

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 90, "ANIMALS," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH BY AMENDING SECTION 90.07, "ANIMAL COMMITTING A NUISANCE," BY DELETING LANGUAGE TO MODIFY ENFORCEMENT PROCEDURES; AMENDING SECTION 90.08, "ANIMALS RUNNING AT LARGE," TO DELETE INAPPLICABLE LANGUAGE; AMENDING SECTION 90.38, "DOG PARK," TO PROVIDE ADDITIONAL REQUIREMENTS FOR USE OF THE CITY'S DOG PARK; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 90.07, "Animals Committing a Nuisance," of Chapter 90, "Animals," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 90.07 ANIMALS COMMITTING A NUISANCE.

(A) It shall be deemed a violation of this section for any person or owner having custody of any animal to permit the animal to commit a nuisance. An animal nuisance is created by but not limited to an animal which:

...

(4) Barks, whines, howls, honks, brays, cries, squawks, crows or makes other noise excessively so as to disturb the sleep, peace or tranquillity of any inhabitant of the city, when such noise is made by an animal provided however it shall not be a violation of this section for any animal, bird, or fowl to make a sound of distress or danger when circumstances reasonably cause it to do so. One hundred dollars first offense. Any second or third offense occurring at any location shall require a mandatory court appearance by an owner or person having custody of a domesticated animal in violation of this subsection, and any such offense shall be punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment for each violation. ~~Certified law enforcement officers shall issue a Notice To Appear for any such second or subsequent violation.~~

...

SECTION 2. That Section 90.08, "Animals Running at Large," of Chapter 90, "Animals," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 90.08 ANIMALS RUNNING AT LARGE.

It shall be deemed a violation of this section for any person to permit any animal to be at large as defined herein.

(A) It shall be a violation of this section when an animal is not under the physical control of a responsible person, by means of a leash, ~~cable or chain~~ or not in the physical presence of its owner or person in custody of said animal while on the owner's property, or not confined to the real property of its owner or person who has custody or control of the animal by means of a fence constructed in a manner which serves to keep said animal confined to the property. Additionally, dog(s) must comply with the minimum standards set forth in §§ 90.09, 90.10 and 90.11.

(B) It shall be deemed a violation of this section for the owner of any animal to locate or secure ~~tie, chain, or otherwise tether~~ an animal in such a manner that it has access to public property, communal areas, common ground, or the property of another without the written consent of the owner of such property. ~~Additionally any dog chained must comply with § 90.09 (A).~~

(C) It shall be a violation of this section for the owner of any animal to transport any animal in a motor vehicle unless the animal is securely enclosed within the vehicle, or if traveling in an ~~UN-~~unenclosed vehicle (including but not limited to convertibles, pick up, and flat bed trucks) is confined by a container,

cage, or other device that will prevent the animal from reaching, attempting to bite, or biting passers by, from the confines of the motor vehicle. ~~Additionally any dog chained must not be able to reach beyond the perimeter of the vehicle and the equipment tethering the animal must comply with § 90.09 (A)(1) with the exception of the length of chain/cable and the base. The base must consist of a welded or bolted structure or fastener of equal or greater strength than the chain/cable.~~

...

SECTION 3. That Section 90.38, “Dog Park,” of Chapter 90, “Animals,” of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 90.38 DOG PARK.

The City may establish areas specifically designated “dog parks” for dogs to run off leash. The following rules shall apply in such areas:

(A) Dog Park Rules.

(1) (a) At all times any dog is outside the designated fenced off leash area, the dog must be under physical control of a responsible adult by means of a leash. Dogs off leash outside of the fenced area will be considered at large and shall be subject to a violation of § 90.08. The leash shall be removed inside the fenced staging area. One leash for each dog must be secured in the hand of the adult owner/handler. Leashes may not be attached to a dog inside the fenced dog park unless separating dogs during an altercation or to remove the dog from the park.

...

(8) Dogs wearing a spiked, choke, electric, shock and/or pronged collar are prohibited. Dog leashes of a maximum length of 6 feet are required and no retractable leashes are allowed.

...

(11) Small bite-sized training treats are permitted. No dog toys, which cause a dog or its owner or handler to exhibit possessive tendencies or aggression toward other dogs or people in the park may be used. No glass receptacles, food or alcohol is are permitted at any time.

...

(16) Animal Control and the Broward Sheriff's Office reserve the right to set a time limit and a maximum capacity for use of the park. At peak times, use of the park is limited to one-half hour for each visitor.

(17) No selling of any animals including, but not limited to, puppies, is permitted in the park. No pet adoptions shall be permitted unless authorized pursuant to subsection (E) below.

(B) Violations of any of the above-listed rules shall result in a violation with penalties conforming with § 90.99 "Penalty," unless otherwise noted in any section.

(C) Any animal control officer or law enforcement officer is authorized to prohibit patrons or dogs from using the park or to require the use of a cage-style muzzle when the behavior of the patron or their dog(s) is disruptive or hazardous to others utilizing the park facility. The officer may also issue a notice to prohibit future use of the park in the following circumstances:

(1) When a dog's behavior in the park results in aggression towards other dogs including dominating, pinning, attacking or otherwise harassing without inflicting bite wounds and the dog's owner or person in control of the animal does not or cannot control the dog. The owner of the dog must complete a basic obedience or dog etiquette class before returning to use the park. The owner must furnish proof of completion to the Animal Control Division prior to using the park again. If the dog's behavior as described above continues, the dog shall be prohibited from future use of the park unless any additional protective measures required under the procedures in subsection (D)(2) below have been taken and approved by the Animal Control Division.

(2) When a dog's unprovoked behavior results in injuries or bite wounds inflicted to other dogs or people, that dog shall be prohibited from future use of the park, unless the prohibition is modified and any protective measures required under the procedures in subsection (D)(2) below have been taken by the dog's owner and approved by the Animal Control Division.

(3) When a park patron exhibits aggressive behavior or uses profane language toward other park patrons, which shall result in termination of park privileges by an Animal Control Officer for the remainder of that day. A second offense shall result in prohibited use of the park by that person for 30 days. A third offense shall result in prohibited future use of the park by said person for one year.

(4) When a dog owner or any person who has custody or control of a dog in the park fails to report to city personnel any incident involving a bite wound or injury to any person or animal caused by their dog prior to leaving the park. Said person shall be prohibited from use of the park for 30 days.

Any additional similar incidents will result in prohibited future use of the park for one year.

(D) (1) It shall constitute a violation for any person who has been suspended or prohibited from use of the dog park to be present in the park during any such prohibited period, or for any person to bring any dog into the park when an Animal Control Officer has determined that the animal's use of the park is prohibited. A citation for a violation of this provision may be issued by an Animal Control Officer or law enforcement officer. \$250.00 penalty for a first violation, \$500.00 penalty for a second or subsequent violation. In addition, all park patrons are subject to the provisions governing city parks as set forth in Chapter 98 of this Code and alternatively, may be cited by a law enforcement officer for violations of any regulations contained therein.

(2) When a person or dog has been prohibited from use of the park by and through the issuance of a written notice from an Animal Control Officer, or the dog is required to wear a muzzle, the person or owner of the dog may file a written request for a hearing to appeal the decision to the Public Works Director. The request must be made within seven (7) calendar days from the date of the notice to contest the prohibition. If requested, the hearing shall be held by a Code Enforcement Special Magistrate as soon as possible but no more than 21 calendar days and no sooner than 5 days after receipt of the request for a hearing. The Special Magistrate is authorized to uphold, overturn or modify the Animal Control Officer's determination and may require certain reasonable protective actions be taken to resume use of the park based on the testimony and evidence presented during the hearing. The prohibited person or animal may not use the park until resolution of the hearing. Failure to request a hearing within the time allowed will result in prohibited future use of the park as indicated in the notice issued.

(E) No person, company, group, organization or other entity shall set up any display, provide any services or park or locate any vehicle for such purposes in the park, within 50 feet of the park or in the surrounding parking area. Non-profit organizations may promote and provide low cost spay/neuter/vaccination services and pet adoptions at the dog park, provided their activities in the park have first been approved through a Special Event Permit or a license agreement, as required by the city. The Animal Control Division is authorized to exhibit dogs available for adoption, to facilitate adoptions, and to organize volunteers to assist in such activities. Temporary signs or banners visible only within the park and signs physically held by a person outside the park announcing the activity may be utilized during any such events.

SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2011.

PASSED SECOND READING this _____ day of _____, 2011.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

MEB/jrm
1/25/11
L:ord/ch90/2011-132