



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PARKS

**File #:** 18-1020

Board Meeting Date: 11/6/2018

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**Special Notice / Hearing:** None

**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Peggy Jensen, Interim Parks Director

**Subject:** Amendment to the County Ordinance Sections Governing Dog Recreation within San Mateo County Parks and Recreation Areas

### **RECOMMENDATION:**

Adopt an ordinance amending Chapter 3.68, consisting of sections 3.68.010, 3.68.020, 3.68.030, 3.68.040, 3.68.080, and 3.68.180, to Title 3 of the San Mateo County Ordinance Code, establishing specified legal opportunities for dog recreation within San Mateo County Parks and Recreation Areas, previously introduced on October 23, 2018, and waive the reading of the ordinance in its entirety.

### **BACKGROUND:**

#### **A. General background**

In spring of 2016, the San Mateo County Parks and Recreation Commission ("Commission") formed the Dog Management Committee ("Committee"), which was tasked with advising the Commission on the development of new dog management policies for the Parks Department ("Department"). The Committee was comprised of representatives from the Commission, Department, Midcoast Community Council, Pescadero Municipal Advisory Council, North Fair Oaks Community Council, and dog-owner, environmentalist, equestrian, and cyclist communities. The Department also implemented an extensive communication and community engagement process to support the Committee's work and gather further public input.

After meeting over the course of approximately 15 months, the Committee developed an overarching policy: "It is the policy of the [San Mateo County] Parks Department, in managing dog access to County parks, to promote healthy, safe, and varied experiences for all park users and to protect natural resources." The Committee also developed secondary policies for the Department to use as guiding principles in assessing which locations are appropriate for dog recreation. The secondary policies focus on education; providing a variety of experiences; avoiding conflicts; protecting pre-existing uses and natural resources; managing access to playgrounds and play areas; considering new areas for dogs; enforcement; and requirements concerning leash length and the number of dogs allowed per person. The Commission adopted these policies (attached as Exhibit A) at its December

7, 2017, meeting.

At the same meeting, the Commission identified recommended next steps, to be implemented in sequential order. The first step, which is the subject of this memorandum, is to amend the County ordinance sections that govern dog recreation within County parks and recreation areas. The second step entails developing and implementing a dog management pilot program to inform possible further revisions to the ordinance and/or Department dog-management policies and practices.

The amendment to the County ordinance sections proposed by this memorandum ("Amendment") is necessary to make the ordinance and existing management practices consistent. In its existing form, Section 3.68.080(i) prohibits park visitors from recreating in County parks and recreation areas with dogs. However, since the ordinance's adoption, the County has accepted ownership of park properties that have historically been, and continue to be, available to the public for recreation with dogs on leash. These properties include the Pillar Point Bluff, Quarry Park, and Mirada East. Additionally, segments of the California Coastal Trail and San Francisco Bay Trail, which are both accessible to dogs throughout San Mateo County, traverse several County parks and recreation areas. For this reason, there are direct conflicts between existing County ordinances and Department dog-management practices.

The Committee also identified the need for enforcement mechanisms that are adequate to deter non-compliant behavior. Under the existing ordinance, each violation is a misdemeanor offense. However, due to the low probability of a jury conviction, the District Attorney's Office has rarely pursued charges. For this reason, Park Rangers have been limited in their ability to effectively protect the natural resources and wildlife and ensure that all visitors have a safe and enjoyable experience. The ordinance Amendment would establish a tiered penalty system for violations.

The second step recommended by the Commission was for the Department to work with a subcommittee of the Committee to create a pilot program that tests the policies developed by the Committee, facilitates the creation of dog management tools and best practices, such as educational materials and signage, and allows for the refinement of the policies as necessary. It was also recommended by the Committee that when developing the pilot program, consideration should be given to the feasibility of off-leash areas, but no commitment was made that off leash areas would be included. If the pilot program shows that further changes to the ordinance are warranted, they would be made in a second amendment to the ordinance.

## **B. The October 4, 2018, Commission meeting**

At the October 4, 2018, Commission meeting, the Department presented a draft of the proposed Amendment to the Commission. The Commission recommended that the Board of Supervisors adopt the Amendment with three changes:

1. Allow dogs to be leashed by a retractable leash, provided that the leash length is reduced to six feet when encountering others;
2. Include language referencing off leash dog areas in case such areas are designated in the future; and
3. Require the first violation of the ordinance to be punishable by only a written warning, rather than a fine.

## **C. The October 23, 2018, Board of Supervisors meeting**

At the October 23, 2018, meeting of the Board of Supervisors ("Board") (the first reading of the Amendment), the Department presented the Amendment, which included the Commission's recommendation to allow retractable leashes of up to sixteen feet, provided that the leash length is reduced to six feet when encountering others. The Board did not make changes to this provision, and the version of the ordinance recommended for adoption today continues to include it.

The Amendment also would have given Rangers the discretion to issue a warning in lieu of a fine, impose fines for initial violations, and make the fourth violation in a year a misdemeanor punishable by a fine of up to \$1,000 and/or a jail term of up to six months. At its meeting, the Board revised the Amendment to eliminate any reference to a misdemeanor and possible jail term. Thus, under the revised version approved by the Board and recommended for adoption today, Park Rangers continue to have the discretion to issue a warning for violations, violations are infractions only, and violations remain punishable under a tiered system of fines. (The amount of each fine is identified below.)

Also at the October 23, 2018, first reading, the Amendment would have made no mention of off-leash areas. That remains true of the revised version of the Amendment approved by the Board on October 23 and recommended for adoption today. However, the Board approved the ordinance with two conditions: (1) that the Department report back to the Board within six months of the Amendment's adoption regarding its efficacy and any issues arising under it, and (2) that, within twelve months from the Amendment's adoption, the Department present a recommendation to the Board regarding potential off-leash recreation areas within County parks and recreation areas. (Following this recommendation, off-leash areas and other policies and best management practices will be considered in the Department's pilot program. Any further changes to the ordinance as a result of the pilot program will be made in a single, second amendment to the ordinance.)

#### **DISCUSSION:**

The proposed Amendment to the County ordinance sections governing dog recreation within County parks and recreation areas, attached as Exhibit B, reads, in part: "No dogs shall be permitted in any San Mateo County Park or Recreation Area, unless such area is specifically designated and signed to allow dogs." This language would make current Department management practices and the County ordinance code consistent.

That change is not enough, however. The existing ordinance section prohibiting dog recreation within County parks and recreation areas fails to regulate the behavior of individuals recreating with dogs. Accordingly, the Amendment includes provisions, developed by the Committee, that would govern the behavior of recreationalists with dogs. These provisions include:

1. Requiring dogs to be leashed, which can include a retractable leash, provided that the length of the leash is reduced to six feet when encountering others; and
2. All dog waste must be picked up and disposed of in a designated receptacle; and
3. No more than three dogs per person; and
4. Dogs must stay on designated trails; and

5. Dogs must be appropriately licensed.

With regard to off-leash recreation areas, the Commission thought it important to recognize that off-leash use has occurred in some areas, and that such areas are valued by some dog owners and might be designated in the future. However, the Department continues to advise against including any reference to off-leash areas in this Amendment, for three reasons. First, including such language in the ordinance would create a conflict with County Ordinance Section 6.04.070, which requires that all dogs be leashed when in public places. Second, per the Committee's final adopted policies, the issue of whether off-leash areas should be allowed in any County park or recreation area is one of the issues to be considered in the second step of this process-the pilot program and possible further amendment of the ordinance. Only during that pilot program will the Department be able to explore different alternatives, collect compliance data, and conduct the necessary environmental review. Third, the Committee itself recommended that off-leash areas be considered as part of the pilot program. For these reasons, any reference to off-leash areas in this Amendment is premature, and the Department continues to recommend that the Board adopt the Amendment without the off-leash language offered by the Commission.

Finally, there is the issue of enforcement. As explained above, violations of the current ordinance are misdemeanors and rarely enforced. As a result, some members of the public continue to willfully and repeatedly violate the regulations with no consequence. To empower Rangers to protect the Department's natural resources and ensure that all park visitors have a safe and enjoyable experience, the Amendment includes a tiered enforcement system. This system would be based on the number of violations within one year:

1 <sup>st</sup> violation	Infraction; \$100.00 fine
2 <sup>nd</sup> violation	Infraction; \$200.00 fine
Each additional violation	Infraction; \$500.00 fine

Stepped infractions are effective at reducing or eliminating recurring, undesirable behavior. Empowering Park Rangers to preserve wildlife and habitat and protect all park users, including the elderly, children, horses, cyclists, and persons who have fears of dogs, the Department is better positioned to satisfy its Mission Statement: *Through stewardship, San Mateo County Parks preserves our County's natural and cultural treasures, and provides safe, accessible parks, recreation and learning opportunities to enhance the community's quality of life.*

The Department continues to recommend against revising the Amendment to make a first violation punishable by only a written warning, as the Commission had recommended, for four reasons. First, the Amendment already preserves Rangers' inherent discretion in the field to not issue a citation for a violation. See Proposed Section 3.68.180(d) ("Any person to whom a citation is issued...."). The Department expects that Rangers will continue to exercise their discretion to give warnings where appropriate. Second, as discussed above, giving Rangers the discretion to impose something more than a warning is key to reducing frequent and repeated violations. Third, the Department believes a six-month education campaign will be more effective than mandatory warnings. During this campaign, Park Rangers would not issue any citations but would instead provide verbal warnings and educational brochures about the rules governing dog recreation within County parks and recreation areas. This approach would provide members of the public with as much education as possible regarding the County's new ordinance, which was the Commission's underlying concern about the Amendment's enforcement scheme and regulations. Preserving that scheme and

providing the proposed six-month education campaign would best balance that concern with the need to grant Park Rangers the discretion required to keep natural resources, wildlife, and park visitors safe. Finally, the Board's deletion of the misdemeanor provision originally proposed as part of the Amendment makes the tiered fines especially important for repeat violators.

Thus, the Department is recommending that the Board adopt the Amendment with the conditions and changes approved at the Board's October 23, 2018, meeting.

**FISCAL IMPACT:**

Adopting the Amendment would lead to an unknown increase in revenue to the General Fund due to fines assessed for violating the ordinance sections. There is no Net County Cost associated with adopting the Amendment.