

ORDINANCE NO. 18-1812

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING SECTION 3301 (ADDITION TO ANIMAL CONTROL ORDINANCE) OF CHAPTER 3 (POUND REGULATIONS) OF ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE TO CLARIFY AND EXPRESSLY RESTATE AND REAFFIRM THE EXCEPTION FROM THE PROHIBITION OF DOGS IN PUBLIC PARKS FOR SERVICE DOGS PURSUANT TO THE AMERICANS WITH DISABILITIES ACT OF 1990 AND SERVICE, SIGNAL AND GUIDE DOGS PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 54.1 AND 54.2

WHEREAS, the City of Carson (City) has always permitted service animals in its public parks pursuant to the City's policy against discrimination and harassment codified in Carson Municipal Code ("CMC") Sections 21100, 21101(A)(1)(f), 21101(A)(1)(p), and 21101(B); and

WHEREAS, to clarify, restate, and reaffirm the City's existing local law and policy against discrimination and harassment, for the benefit of the public and City staff, the City Council sees fit to modify the exceptions to the general prohibition of CMC Section 3301 on dogs entering the City's public parks, to expressly state that service dogs, signal dogs and guide dogs may enter City parks, to the extent consistent with applicable state and federal law; and

WHEREAS, for the same purpose, and for the protection of public health, safety and welfare, the City Council sees fit to further amend CMC Section 3301 to clarify and expressly provide that service dogs, signal dogs and guide dogs in City parks must be under the control of their handler, but must be harnessed, leashed, or tethered only to the extent consistent with applicable federal regulations under the Americans with Disabilities Act of 1990, whereas other dogs must be leashed at all times while in City parks.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The forgoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. Section 3301 of Chapter 3 of Article III of the Carson Municipal Code is hereby amended to read in its entirety as follows (new text is identified in *bold & italics*, deleted text in ~~strike-through~~):

"3301 Addition to Animal Control Ordinance

Notwithstanding the provisions of CMC 3300, the Animal Control Ordinance is amended by adding Section 10.40.110 to read as follows:

10.40.110 Dogs – Prohibited in Public Parks.

A. It shall be unlawful for the owner or person having custody of any dog to allow said animal to enter upon any public park, *except as otherwise provided in this Section.*

B. The provisions of this Section shall not prohibit the use of dogs on park property for teaching uses when approved by the ~~Director of Parks and Recreation~~ *Director of Community Services.*

C. *The provisions of this Section do not prohibit the use of Service Dogs in any public park, to the extent such use is protected by applicable state and federal law. For purposes of this section, "Service Dog" means a dog that constitute a service animal, as defined in Section 35.104 of Title 28 of the Code of Federal Regulations, and as amended, or a dog trained as a guide dog, signal dog, or service dog, as such terms are defined in Section 54.1 of the California Civil Code, and as amended.*

D. *Dogs that constitute service animals, as defined in Section 35.104 of Title 28 of the Code of Federal Regulations, and as amended, shall not be excluded from public parks except to the extent consistent with 28 C.F.R. §35.136(b)-(c), and as amended.*

E. *Dogs that do not constitute service animals, as defined in Section 35.104 of Title 28 of the Code of Federal Regulations, and as amended, shall be leashed at all times while in public parks.*

F. *At all times while in public parks, dogs that constitute service animals, as defined in Section 35.104 of Title 28 of the Code of Federal Regulations, and as amended, shall be:*

(1) under the control of their handler, and

(2) harnessed, leashed, or tethered, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

G. *Nothing in this Section shall be deemed to preclude the use of a miniature horse in a public park by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability, provided the City has made a determination, as a matter of policy, practice or procedure, that the miniature horse can be allowed in the subject public park facility, based on the assessment factors set forth in Section §35.136(i) of Title 28 of the Code of Federal Regulations, and as amended.*

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held

invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this _____ day of November, 2018.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE-ALDANA

APPROVED AS TO FORM:

CITY ATTORNEY SUNNY K. SOLTANI