



CITY OF CARSON

Legislation Text

File #: 2018-815, Version: 1

Report to Mayor and City Council

Wednesday, November 07, 2018

Consent

SUBJECT:

CONSIDER APPROVING ORDINANCE NO. 18-1812 THAT WOULD AMEND SECTION 3301 (ADDITION TO ANIMAL CONTROL ORDINANCE) OF CHAPTER 3 (POUND REGULATIONS) OF ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE (CITY COUNCIL)

I. SUMMARY

The City of Carson has always permitted service animals in its public parks pursuant to its policy against discrimination and harassment codified in Carson Municipal Code (CMC) Sections 21100-21101 (Exhibit No. 1). Title II and III of the Americans With Disabilities Act (ADA) generally states that entities must permit service animals that accompany individuals with disabilities to enter all areas where the public is permitted to go (Exhibit No. 2). State law provides a similar requirement (Exhibit No. 3). However, Section 3301 of the CMC prohibits the owner or person having custody of any dog to allow said animal to enter any public park, except for teaching uses when approved by the Director of Parks and Recreation {now Community Services Director} (Exhibit No. 4). In an effort to clarify, restate, and reaffirm the City's policy against discrimination and harassment, and to ensure public awareness of the City's compliance with the ADA and State law, staff is requesting that the City Council approve Ordinance No. 18-1812 (Exhibit No. 5).

II. RECOMMENDATION

APPROVE Ordinance No. 18-1812 that would amend Section 3301 (Addition to Animal Control Ordinance) of Chapter 3 (Pound Regulations) of Article III (Public Safety) of the Carson Municipal Code, by expressly permitting service animals accompanying individuals with disabilities to enter all areas of the City's parks where the public is permitted to go, subject to certain requirements and exceptions.

III. ALTERNATIVES

1. DO NOT APPROVE the recommendation.
 2. TAKE another action the City Council deems appropriate
- IV. BACKGROUND**

The ADA requires state and local governments that serve the public generally to allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. Specifically, the regulations implementing the ADA, 28 CFR Part 35 (Nondiscrimination on the Basis of Disability in State and Local Government Services), provides that “[g]enerally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.” State law similarly provides that “[e]very individual with a disability has the right to be accompanied by a guide dog, signal dog, or service dog” in “places to which the general public is invited”. (Civil Code Sections 54.1, 54.2).

Sections 21100 and 21101 of the CMC provides the City’s explicit policy regarding discrimination of non-employees by City employees, including for disability status. Section 3301 of the City of Carson’s Municipal Code (CMC) currently prohibits either the owner or the person accompanying an animal to enter park property. However, the City has incorporated into its park policy and procedures provisions for permitting the use of service animals by individuals with disabilities. However, Staff feels the need to amend CMC Section 3301 to explicitly exempt service animals, which are permitted to accompany a disabled individual in the City’s parks.

Under the ADA, the individual must maintain control of the animal through physical restraint or other effective controls. This requirement may be enforced by Park staff should an individual assert service animal status. Furthermore, Staff may inquire into the asserted service animal status by asking ONLY two questions: (1) is the service animal required because of a disability, and (2) what work or task has the animal been trained to perform. Staff cannot ask about the person’s disability, require medical documentation, require a special identification card or training documentation for the animal, or ask that the animal demonstrate its ability to perform the work or task.

A person with a disability cannot be asked to remove their service animal unless: (1) the animal is out of control and the handler does not take effective action to control it or (2) the animal is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal’s presence.

Adopting a provision exempting service animals from Section 3301 would work to reaffirm the City’s policy against discrimination and harassment, and provide clarity to the public in regards to the City’s policy against discrimination and harassment with respect to the use service animals in City parks, without restricting the City’s ability to properly regulate its public parks. Therefore, Staff is requesting that the City Council approve Ordinance No. 18-1812

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Sections 21100 (Purpose and Scope), and 21101 (Discrimination and Harassment) of Chapter 11 (Discrimination and Harassment Prevention Policy) of Article II (Administration) of the Carson Municipal Code. (pgs. 4-7)
2. 2010 ADA Revised Requirements, Service Animals. 28 C.F.R. Sections 35.104, and 35.136. (pgs. 8-14)
3. California Civil Code Sections 54.1, and 54.2. (pgs. 15-19)
4. Section 3301 (Addition to Animal Control Ordinance) of Chapter 3 (Pound Regulations) of Article III (Public Safety) of the Carson Municipal Code. (pg. 20)
5. Ordinance No. 18-1812. (pgs. 21-23)

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