

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	_____
CM	_____
CA	_____

DATE: JULY 12, 2006

TO: CITY MANAGER/HONORABLE MAYOR AND CITY COUNCIL

FROM: SHARIE APODACA, ADMINISTRATIVE SERVICES DIR.

SUBJECT: UNATTENDED ANIMALS – CODE REVISION

RECOMMENDED ACTION:

That the City Council introduces and holds first reading:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING SECTION 10.08.070 OF THE DANA POINT MUNICIPAL CODE RELATING TO UNATTENDED ANIMALS

ISSUE:

Shall the City Council amend the Municipal Code regarding unattended animals to protect its citizens and mitigate potential complaints about animals disturbing the peace?

BACKGROUND:

The cities of Dana Point and San Clemente entered into a Joint Powers Authority to form the Coastal Animal Services Authority (CASA) for animal control and shelter services. CASA, in partnership with Pet Project Foundation has been providing outstanding animal services to our community since its formation in 1995.

DISCUSSION:

CASA has requested the City modify its existing Municipal Code Section 10.08.070 related to unattended dogs. The proposed revision would make it unlawful for a property owner to house, store or board a dog on any unoccupied residential property or vacant commercial property within the City barring specific exceptions outlined in this report and the proposed ordinance (**ACTION DOCUMENT A.**)

What has prompted this request is that CASA has been involved in a persistent animal enforcement issue in San Clemente for some time involving two dogs left unattended on residential property. This residential property has been in a state of remodel and construction for several years and is presently uninhabitable. The property owners are only present once each day for a short period of time to feed the dogs. Although the property has been unoccupied for several months, the dogs continue to be boarded on the property unsupervised which has resulted in the dogs finding their way off the premises, and uncontrollable barking and public nuisance issues reported by neighbors.

The current code provides that "it is unlawful to leave an animal unattended and without proper food, water and shelter for a period of more than 24-hours." The code as written allows a dog to reside on property that is unoccupied by its property owner as long as the dog is fed every 24 hours. Although property owners can be cited for nuisance barking issues, the impact to the neighborhood continues.

The proposed ordinance expands this language and would make it unlawful for a property owner to place a dog or allow a dog to remain on unoccupied residential property or vacant commercial property for a period of twenty-four (24) hours or more regardless of whether the dog is provided proper food, water and shelter with the exception of:

1. Licensed guard dogs that have been issued a permit by CASA
2. A dog remaining on the property of a resident who goes on vacation or otherwise temporarily does not occupy the property but leaves the animal under the care and supervision of another person who checks on the dog every 24 hours and who will be responsive to public nuisance complaints, providing the time period does not exceed 21 days.

CASA has requested that the cities of Dana Point and San Clemente adopt these code revisions so that the code regulating unattended dogs is consistent between both cities and to preclude any future problems stemming from unattended dogs. The City of San Clemente adopted this ordinance revision at its meeting of June 5, 2006. Staff recommends the City Council hold first reading of the Ordinance to enhance enforcement abilities in Dana Point for the benefit of public health and safety.

NOTIFICATION AND FOLLOW-UP:

Coastal Animal Services Authority
Police Services

STRATEGIC PLAN INITIATIVE:

Protect the health, safety and welfare of our residents, businesses and visitors.

FISCAL IMPACT:

This action results in no fiscal impact. The City entered into a Joint Powers Authority with the City of San Clemente to form the Coastal Animal Services Authority for animal control and shelter services. Funds are budgeted in the current budget for these services.

ALTERNATIVE ACTIONS:

As deemed appropriate by the City Council.

ACTION DOCUMENTS: _____ **PAGE NO.**

A. [ORDINANCE](#).....4

ACTION DOCUMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF DANA POINT, CALIFORNIA,
AMENDING SECTION 10.08.070 OF THE DANA
POINT MUNICIPAL CODE RELATING TO
UNATTENDED ANIMALS

WHEREAS, the City of Dana Point desires to maintain a high quality of life for its residents and visitors; and mitigate complaints that dogs are being kept in uninhabited homes; and

WHEREAS, the City desires to mitigate instances where dogs are kept in uninhabited homes and or properties; and further, those dogs are unattended for all but a short period of time when the owner or some other person stops by to provide them with food; and

WHEREAS, this causes the dogs to bark, howl, whine and disturb the peace and quiet of the neighborhood; and

WHEREAS, such a practice harms not only the dogs, but the neighborhood as a whole and negatively impacts the quality of life of our residents.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 10.08.070 entitled “Unattended animals” is hereby amended to read in its entirety as follows:

10.08.070 Unattended animals.

A. It shall be unlawful to leave an animal unattended and without proper food, water, and shelter for a period of more than twenty-four (24) hours.

B. In addition to the prohibition contained in subsection A above, it shall also be unlawful to do any of the following:

1. Place a dog or allow a dog to remain on unoccupied property for a period of twenty-four (24) hours or more regardless of whether the dog is provided proper food, water and shelter. For the purposes of this section, “unoccupied property” shall mean the following:

a. Residential property which is not actually and legally being used as a residence at such time as the dog is on the property. Examples could include, but are not limited to, residential property currently under construction and residential property not then being resided in by a person who can be and is responsive to complaints about the animal disturbing the peace of the neighborhood.

b. Commercial property under construction or commercial property otherwise vacant.

C. Exceptions: subsection B1 of this section shall not apply to the following:

1. The placement of a licensed guard dog on property once the licensed guard dog company obtains a permit from the city or its designee for the placement of guard dogs on the property;

2. A dog remaining on the property of a resident who goes on vacation or otherwise temporarily does not occupy the property but leaves the animal under the care and supervision of another person who regularly checks on the animal at least once every 24 hours and who can and will be responsive to complaints about the animal disturbing the peace of the neighborhood, providing the period does not extend beyond 21 days.

D. Dogs found in violation of this ordinance may be impounded by the Animal Authority until claimed by the property owner. The animal will not be released until the property is legally occupied or other suitable arrangements acceptable to the Director are made for the placement of the animal. All related impound, storage or other fees must be satisfied before the release of the animal. In the event the property owner fails to claim the animal within ten (10) working days of notification of impound, the animal will be considered abandoned.

SECTION 2. The City Clerk shall certify to the passage and adoption of this Ordinance and the same shall be noticed as required by law and shall take effect as provided by law.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 2006.

ATTEST:

Kathy M. Ward
Acting City Clerk

Lara Anderson
Mayor

