

CITY OF DANA POINT
STAFF REPORT

Reviewed By:
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CA <input type="checkbox"/>

DATE: NOVEMBER 20, 2006

TO: CITY MANAGER / CITY COUNCIL

FROM: SERGEANT MARK LONG, DANA POINT POLICE SERVICES

SUBJECT: SECOND READING OF AN ANTI-LITTERING ORDINANCE

RECOMMENDED ACTION:

That the City Council conduct second reading and adopt an ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING CHAPTER 6.45 OF THE MUNICIPAL CODE ENTITLED THE "ANTI-LITTERING ORDINANCE."

ISSUE:

Should the City Council amend the Dana Point Municipal Code to add a new chapter which provides that littering on public property within the City constitutes a violation of the City's Municipal Code and is enforceable by City personnel?

BACKGROUND:

At a regular meeting held November 8, 2006, the City Council introduced and conducted a first reading of an Ordinance pertaining to prohibiting littering in public places. Like many other cities, the City of Dana Point suffers from large amounts of trash thrown in the street and other public places. During the month of September 2006 alone, the City street sweeper removed 34 tons of trash from City streets. During the Dana Point Coastal Cleanup Day in September 2006, over 700 pounds of trash was picked up from our beaches and waterways. As a result of the City's trash problem, the Public Works Department contracts with the OC Probation Department for litter removal throughout the City.

DISCUSSION:

California Penal Code section 374.4 established a criminal penalty for littering on private or public property. Moreover, California Vehicle Code section 23111 prohibits motorists from disposing lighted and non-lighted cigar, cigarette, match and all other flaming or glowing substances. Furthermore, California Vehicle Code section 23112 prohibits the

throwing of most trash items from a vehicle. However, there is no City ordinance or Orange County Codified Code ordinance that prohibits pedestrians from throwing trash on the street or any other public property or area.

Thus, despite the fact that littering constitutes a significant public nuisance within the City, no local ordinance exists to fight this problem. For this reason, the adoption of an ordinance that will allow local enforcement to deal with this problem is important. Barbara Stocker, Office of County Counsel, advised the Sheriff’s Department that littering ordinances as a rule are upheld as legal unless they infringe on First Amendment rights (e.g., distribution of political leaflets).

CONCLUSION:

The City Council should adopt this Ordinance.

NOTIFICATION AND FOLLOW-UP:

Notification was provided in accordance with the Brown Act by the City Clerk.

STRATEGIC PLAN INITIATIVE:

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

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ALTERNATIVE ACTIONS:

Vote to not adopt new ordinance.

ACTION DOCUMENTS:

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A. [Ordinance](#)3

ACTION DOCUMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ADDING CHAPTER 6.45 OF THE MUNICIPAL CODE ENTITLED THE "ANTI-LITTERING ORDINANCE."

WHEREAS, incidents of littering in Dana Point have increased and have resulted in a visible blight on the community; and

WHEREAS, the City of Dana Point suffers from disproportionate amounts of trash, including tobacco litter, thrown on to the streets and other public places; and

WHEREAS, some of this litter is collected by stormwater from other areas in the City and channeled through the City's drainage system directly into our beach areas and waterways to the detriment of ocean life and all ocean users; and

WHEREAS, Penal Code section 374.4 established a criminal penalty for littering on private or public property; and

WHEREAS, California Vehicle Code section 23111 prohibits motorists from disposing of any lighted and non-lighted cigar, cigarette, match or any other flaming or glowing substance; and

WHEREAS, California Vehicle Code section 23112 prohibits the throwing of trash from a vehicle; and

WHEREAS, neither the Dana Point Municipal Code nor the Orange County Codified Code currently have any provisions that sufficiently prohibit littering by pedestrians in public areas; and

WHEREAS, to preserve the beauty, health and safety of the City of Dana Point and its beaches, and the safety and welfare of its residents and visitors, the City desires to add this ordinance entitle the "Anti-Littering Ordinance" to the City of Dana Point Municipal Code to establish the prohibition of littering in public places and to empower City personnel to enforce littering standards.

THE CITY COUNCIL FOR THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: The above recitals are incorporated herein by reference.

Section 2: Chapter 6.45 is hereby added to the Dana Point Municipal Code to read in its entirety as follows:

Chapter 6.45 ANTI-LITTERING ORDINANCE

6.45.100 Littering Prohibited.

6.45.110 Penalties.

6.45.100 Littering Prohibited.

It shall be unlawful for any person to throw, drop, cast or deposit on any street, alley, sidewalk or any other public premises, including, but not limited to, beaches, parks, fountains, ponds, bays, ocean, or other bodies of water or public areas, any waste material of any kind including, without limitation, cigarette butts, cans, paper, paper containers, bottles or any other form of waste matter, whether solid, hazardous or special. Nothing contained herein shall preclude the right of any person to place any waste material in public or private trash receptacles or in official City dumps as permitted by this code or by applicable law.

6.45.110 Penalties.

An offense under this section shall be punishable by a fine of not more than one hundred dollars (\$100) for the first conviction, for a second conviction within a period of one year by a fine of not more than two hundred dollars (\$200), and for a third or any subsequent conviction within a period of one year by a fine of not more than five hundred dollars (\$500).

Section 3: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declared that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 4: The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2006.

Lara Anderson, Mayor

ATTEST:

Kathy Ward,
Acting City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF DANA POINT)

I, KATHY M. WARD, Acting City Clerk of the City of Dana Point, DO HEREBY CERTIFY, that the foregoing Ordinance No. 06-_____ was duly introduced at a regular meeting of the City Council on the 8th day of November, 2006, and was duly adopted and passed at a regular meeting of the City Council on the 20th of November, 2006, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Kathy M. Ward
Acting City Clerk