

Testimony from NYC Bar Association
NYC Department of Parks & Recreation Hearing
to be held on February 22, 2007

My name is Jane Hoffman, and I am the Chair of the New York City Bar Association's Committee on Legal Issues Pertaining to Animals (the Committee). The Committee was the first such bar association committee in the nation. In this statement, I am speaking on behalf of the Association.

The Committee sponsors annual Animals and the Law conferences as well as evening programs that are open to the public on areas of interest such as Humane Education, Pets in Housing, Animal Abuse and the Violence Connection.

The Committee also publishes brochures regarding animal cruelty, access rights for people with disabilities and their service animals, and how people can make sure their pets are cared for in case of their incapacity or death and comments on and drafts legislation on the local, state and federal level.

The Committee is very familiar with the language of Health Code Section 161.05 concerning the restraint of animals, and Parks Department Rules Section 1-04(i), which enables the Parks Commissioner to permit animals off-leash, as well as Parks Department Rules Section 1-05(s) (3) which enables the Parks Commissioner to designate certain fenced areas in parks as dog runs. It is also familiar with Section 533 of the City Charter, which empowers the Parks Commissioner to establish and enforce rules and regulations for the use, governance, and protection of public parks.

The Committee supports, with recommendations, the Parks Department's proposed amendments to Section 1-04(i) of Title 56 of the Rules of the City of New York which will codify the current policy of permitting off-leash exercise and socialization for dogs in designated parks within the City between the limited hours of 9 PM until closing, and from opening until 9 AM ("Courtesy Hours"). The Committee also supports, with recommendations, the Parks Department's proposed amendments to Section 1-05(s) of Title 56 of the Rules of the City of New York regarding fenced dog runs.

Access to areas and times that enable dogs to exercise and socialize both on and off-leash makes life in the City more satisfying for both dogs and their guardians, reduces stress that can lead to behavior problems, and, thus, very

likely contributes to keeping dogs who already have homes from ending up in our shelters. For the same reasons, it encourages the adoption of dogs who would otherwise remain in shelters, or be euthanized. The Committee also believes that the proposed rules will promote responsible dog guardianship and safeguard public health by requiring dog licensing and rabies vaccination.

We recommend the following with respect to the amendments to Section 1-04 (i) and Section 1-05(s) of Title 56 of the Rules of the City of New York.

Proposed Amendments to Section 1-04(i)(1)

We recommend that definitions be provided in Section 1-04(i)(1) for the terms “unleashed,” “unrestrained,” and “out of control.” These terms may have different meanings for different people and their interpretation can have draconian consequences, since a dog who fits these definitions may, under certain circumstances, be seized and impounded. Additionally, we recommend that merely being “unleashed” or “unrestrained” but not “out of control” not be grounds for seizure and impoundment since such seizure and impoundment are, at the very least, extremely traumatic for the dog and can lead to dire consequences, including illness and death.

The proposed language would prohibit leashed dogs from entering a “beach” or “bridle path.” Since historically there have been “bridle paths” where on-leash dogs have been allowed we recommend that this term be struck in this section. If the Department wishes to make certain bridle paths, in certain parks, dog-free, that can be accomplished by the posting of signs, without a global rule that would change the current successful policy for bridle paths where dogs are currently permitted. There are also areas that have sand and water that currently allow dogs (such as the very popular and successful Prospect Park “dog beach”) and leashed dogs have historically been allowed on certain other beaches in the fall and winter months. Therefore, we recommend that the term “beach” be defined for the purposes of this section as “a public beach where signs provide that dogs are not allowed at any time”.

Proposed Amendments to Section 1-04(i)(2)

We recommend that, with respect to the proposed language in Section 1-04 (i)(2), which would codify the current “Courtesy Hours” policy, the language should make clear that dogs must be brought to a designated park or portions of a park on leash and only upon arrival at the park or designated area of the park be unleashed.

We also recommend that definitions be provided for in Section 1-04(i)(2)(i) for the terms “harass” and “injure” (perhaps the definitions of those terms in the state’s Penal Law would be instructive) and we reiterate our comments re: the term “beach” in Section 1-04(i)(2)(ii). Furthermore, we are concerned that the term “disturb” in Section 1-04(i)(2)(i) is too vague and might encompass innocuous conduct and recommend that the term be deleted.

We are concerned about the language in Section 1-04(i)(2)(iii) which would require an owner to leash their dog upon the command of certain designated officers and employees of the Parks Department or the Department of Health and Mental Hygiene as drafted, as it may lead to a perception of arbitrary enforcement without further clarity as to when and under what circumstances such an order may be issued if a person is otherwise complying with Section 1-04 (i)(1).

Proposed language in Section 1-04(i)(2)(iv) would require that every owner have to prove current vaccination against rabies and current licensing upon the request of certain officers and employees of the Parks Department. We believe that greater clarity and ease of enforcement would be achieved by adding language that would make clear that the presence on a dog’s collar of a license tag issued by the NYC Department of Health and a rabies tag is sufficient proof for purpose of this section.

Proposed Amendments to Section 1-05(s)(3)

We recommend the same changes regarding proof of licensing and vaccination as were recommended for Section 1-04(i).

Finally we recommend that additional language be added requiring signage clearly informing the public of areas where dogs are prohibited, where leashed dogs are permitted, and where and when unleashed dogs are permitted.

The Committee thanks the Parks Department for the opportunity to testify today and for its support of off-leash hours. We would be grateful for the opportunity to work with the Department going forward in any way that we can be of assistance in making this policy successful, as we firmly believe that it will be of great benefit to the residents, both human and canine, of New York.