

ORDINANCE NO. 2023-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING SECTION 3-151 OF CHAPTER VI TO TITLE 3, ANIMAL REGULATIONS, OF THE COSTA MESA MUNICIPAL CODE RELATING TO APPEALS FROM ACTION OF POLICE CHIEF.

WHEREAS, the Costa Mesa Police Chief is granted various powers under Chapter VI (Special Animal Permit), including the power to issue permits, to grant or deny applications for permits, and to revoke or suspend such permits; and

WHEREAS, any person aggrieved by an action taken by the Chief of Police pursuant to this Chapter has an appeal right; and

WHEREAS, currently, Section 3-151 requires an appeal of a decision made under Chapter VI be directed to the City Council; and

WHEREAS, the City Council finds that to create uniform appeal procedures across the City of Costa Mesa and to improve the efficiency of the appeal process under Chapter VI, any appeal under Section 3-151 shall be to the City Manager; and

NOW, THEREFORE, THE COSTA MESA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter VI (Special Animal Permit) of Title 3 (Animal Regulations) of the Costa Mesa Municipal Code is hereby amended to read as follows:

3-151. Appeals from action of police chief.

(a) If any person is aggrieved by any action of the police chief taken pursuant to this chapter, such person may appeal to the city manager by filing with the city clerk a statement addressed to the city manager setting forth the facts and circumstances regarding the action or failure to act on the part of the police chief. The city clerk shall notify the applicant in writing by registered mail of the time and place set for hearing the appeal. The *city manager* shall hold a hearing and determine the merits of the appeal, and may sustain, overrule or modify the action of the police chief. The decision of the *city manager* shall be final.

(b) The right to appeal to the *city manager* from any action or decision of the police chief under this chapter shall terminate upon the expiration of fifteen (15) days following the giving of notice to the applicant advising him of the action of the police chief. (Ord. No. 07-16, § 1, 8-7-07).

Section 2. Environmental Compliance. Pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) the ordinance is not a "project" and further, that it can be seen with certainty that there is no possibility that the ordinance in question may have a significant effect on the environment, either directly or indirectly, and that therefore no environmental review under the CEQA is required, pursuant to CEQA Guidelines Section 15061(b)(3). In addition, the Ordinance is exempt pursuant to CEQA Guidelines Section 15308 (Class 8, Actions by Regulatory Agencies for the Protection of the Environment) because the adoption of this Ordinance is required to comply with state law in order to protect the environment.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, 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 portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5. Certification. After this ordinance is approved by a majority vote of the City Council, the Mayor and City Clerk shall certify that the ordinance was approved by a majority vote. The City Clerk shall file one copy of the approved ordinance with the Orange County Clerk-Recorder's office, one copy with the Orange County Registrar of Voters and keep one copy in the City's archive. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner required by law.

Section 6. Effective Date. This Ordinance shall become effective on the thirty-first day after its passage.

PASSED, APPROVED AND ADOPTED this ___ day of ___, 2023.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2023-xx was duly introduced and given first reading at a regular meeting of the City Council held on January 17, 2023 and adopted at a regular meeting of the City Council held on the ___ day of ___, 2023, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this _____ day of _____, 2023.

BRENDA GREEN, CITY CLERK