

ORDINANCE AMENDMENT

The Town of Smithfield Hereby Ordains:

SECTION 1: That Chapter 126 of the Municipal Code of Ordinances entitled “ANIMALS is hereby amended by adding thereto the following section entitled “ARTICLE VIII SMITHFIELD DOG PARK:

Section 126-39. Smithfield Dog Park

There is hereby established within the Town of Smithfield a Dog Park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of an attendant who is competent and knowledgeable relative to the behavior of said dog(s).

126-40. Definitions

(a) Attendant: A person sixteen (16) years or older who brings a dog to the Dog Park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog(s) at all times while at or inside the outdoor facility.

(b) Dog Park: An enclosed fence facility designated by the town of Smithfield for the purpose of allowing dogs, under the control of their owner or attendant, to exercise and socialize off-leash.

(c) Customized ID Card: A customized identification card which contains a photograph of each dog authorized to utilize the Dog Park. This card is specific to dog(s), but worn by attendants at all times.

(d) Owner: As defined herein.

(e) Vicious Dog: As defined herein.

(f) Visual Control: The attendant can see the dog(s) and is within 75-feet of the dog(s) at all times.

(g) Voice Control: The attendant is within 75-feet of the dog(s), is able to control and recall the dog(s) at all times, and is not allowing the dog(s) to fight with other dogs. A dog under voice control must immediately come to the attendant when so commanded.

126-41.Park Operations

The Town of Smithfield Animal Control under the direction of the Police Department shall have authority to control the Dog Park and to make reasonable rules for its operation that are consistent with the Ordinance. The Dog Park will be operated year-round on a daily basis from sunrise to sunset, unless closed for maintenance or severe weather.

(A) Dog Park Rules:

- Owners/attendants must obey all posted park rules. Anyone to be found in violation is subject to removal and may be subject to fines.
- Dog Park is open from sunrise to sunset. Use is prohibited after 9 p.m. Owners/attendants must obey posted park hours.
- Owners/attendants must be Smithfield residents and register and obtain a customized ID card for each dog. ID cards must be worn and visible at all times
- Owners/attendants must be 16 years of age to enter the park.
- Children under 8 years of age are prohibited from entering the park. Children between the ages of 9-15 must be accompanied by an adult and be closely supervised.
- No more than (2) dogs per owner/attendant shall be allowed in the park.
- Owners/attendants must ensure all dogs are current on all required vaccinations.
- All dogs must be free of diseases, parasite free, and have no visible wounds or injuries.
- Owners/attendants enter park at own risk and are legally and financially responsible for any damage caused by their dogs to another person, dog or park property.
- Owners/attendants must have visual and voice control of their dogs and control excessive barking at all times.
- Owners/attendants must clean up after their dogs.
- Dogs with a known history of dangerous/ aggressive behavior are prohibited.
- Dogs must wear collars or harnesses at all times. Spiked, choked and electronic collars are not permitted.
- Food of any kind, toys, and glass containers are not permitted inside the park.
- Smoking and the consumption of alcohol is prohibited inside the park.
- Dogs under 4 months of age are prohibited.
- Dogs must be spayed or neutered.
- Leaving dogs unattended is prohibited.
- Owners/attendants must carry a leash for each dog at all times and must attach leash to dog(s) when outside of the park.
- Aggressive owners/attendants and dogs will be asked to leave the park and may be prohibited from future use.

- Owners/attendants must report all bites to the Smithfield Animal Control Officer immediately by calling 233-1055. Dogs who bite will be removed and the owner/attendant shall be subject to fines.
- The use of bicycles, roller blades/skates, skateboards and similar equipment is prohibited.
- Motorized vehicles and devices, except for wheelchairs for the disabled, are prohibited.
- Professional dog trainers are prohibited from using the park for the operation of their business.
- Camera surveillance is in use. If any known violations of park rules is witnessed, please immediately report to the Smithfield Police Department by calling 231-2500.

126-42.Responsibilities of Dog Park Users

(A)Each attendant using the park is responsible for reading the rules of the Dog Park on first entering it.

(B) The attendant must ensure that their dog(s) are legally licensed in the Town of Smithfield and are current on all vaccinations, to include: Rabies, Distemper/Parvovirus, and Bordetella (kennel cough), and that their dog(s) is spayed or neutered. Proof of current licensing, vaccinations, and spay/neutering must be presented at registration, along with the dog(s), at a location designated by the Smithfield Police Department in order to be issued a customized ID card to access the park.

Registration sites, dates and times are subject to the discretion of the Police Department Animal Control and may take place at annual rabies clinics and/or additional times throughout the year. Attendants are required to register and sign a liability waiver to utilize the park each year at which time their customized ID cards will be issued for their dog(s). Said ID cards will expire within one year. Requirements can be checked periodically by the Smithfield Police Department and Animal Control, who may establish rules relative to the periodic renewal of customized ID cards.

(C) An annual fee of \$25 dollars per household will be required in order to become a registered attendant of the dog park and be issued a customized ID card for each dog. Said fee will be deposited into the Town of Smithfield Dog Park Fund or an alternative fund utilized specifically for annual costs of maintenance, supplies, and other costs associated with the dog park.

(D)All dogs shall be free of contagious or infectious diseases, be parasite-free both externally and internally, and have no visible wounds or injuries. Requirements can be checked periodically by the Smithfield Police Department and Animal Control, who may establish rules relative to the periodic renewal of customized ID cards.

(E)No more than two (2) dogs per attendant shall be allowed in the Dog Park.

(F)The attendant of the dog(s) shall remain inside the enclosed Dog Park and have visual and voice control of their dog(s) at all times. Dogs shall not be left unattended at or inside the facility.

(G)All dogs must be wearing a collar or a harness, however spiked, choke, and gentle-leader style electronic collars are not permitted.

(H)The attendant of any dog(s) using the facility must have in his possession a leash that must be attached to said dog(s) when outside the facility area.

(I) The attendant must also have in his possession at all times while inside the park the customized ID card issued by the Smithfield Police Department or Animal Control. The customized ID card shall be displayed in such a manner that it is plainly visible on the attendant's outer clothing. Lanyards will be provided to each registered attendant that can be affixed to the customized ID card issued.

(J)The attendant shall control excessive barking.

(K)Food, toys, and glass containers are not permitted in the dog park. Smoking is prohibited in the dog park.

(L)The attendant is responsible for destruction caused by his or her dog, which includes the responsibility of filling in any holes the dog digs while in the park.

(M)The attendant must remove their dog(s) when they become engaged in excessive barking or are fighting with other dogs.

(N)The attendant of dogs using the facility must use a suitable container to promptly remove any feces deposited by their dog(s) and properly dispose of such waste material in designated receptacles.

126-43. Regulations Regarding Minor Children.

(A) Children under the age of 8 are prohibited from entering the Dog Park. While inside the facility, children between the ages of 9-15 shall be accompanied by an adult attendant who shall be responsible for the child's proper behavior and safety. Such children are not permitted to excite or antagonize any dogs using the facility by any means including, but not limited to, shouting, screaming, waving their arms, throwing objects, running at, or chasing dogs.

126-44. Prohibited Actions.

To ensure the safety of the dogs and attendants the following shall not be permitted at or within the Dog Park facilities.

(A) Animals that are not dogs.

(B) Dogs under the age of four (4) months.

(C) Any sexually intact dog, male or female. (All dogs must be spayed and neutered and supply proof upon registration).

(D)Dogs deemed to be vicious, or who have a previous history of aggressive behavior toward other animals or humans.

(E) The use of bicycles, roller blades/skates, skateboards and similar types of exercise equipment.

(F)Motorized vehicles and devices, except for wheelchairs for the disabled.

(G) Glass bottles and similar breakable containers.

(H)Alcoholic beverages.

(I) Smoking.

(J) Food of any type, including dog biscuits/treats.

(K) Professional dog trainers may not use the facility in conjunction with the operation of their business.

126-45. Liability

(A) All individuals who utilize the Dog Park shall comply with all rules and regulations governing the use of the facility.

(B) The owner and/or attendant is responsible for and liable for all injuries and damages caused by their dog(s).

(C) The use of the Dog Park shall constitute the implied consent of the dog owner and/or attendant to abide by all of the rules and regulations of this ordinance and shall constitute a waiver of liability to the Town of Smithfield for any and all violations of any provisions of this ordinance. All individuals utilizing the Dog Park agree and undertake to protect, indemnify, defend, and hold the Town of Smithfield harmless for any injury or damage caused by or to their dog(s) during any time that said dog(s) is unleashed at the facility or for the violation of any of the provisions of this ordinance.

126-46. Dangerous Dog

Any owner or handler of a dog that has been designated as dangerous, or which he or she has reason to know is dangerous, shall not bring such a dog into a dog park or off-leash area. Violation of this provision shall be cause for termination of any privileges associated with the use of the facility and shall be subject to a \$100 dollar fine. This provision shall not negate any other penalties that may apply for harboring a dangerous dog.

126-47. Dog Bites

A dog bite occurring in a dog park or off-leash area shall be reported to the local police or animal control officer by anyone involved or anyone witnessing such event, or by a physician or veterinarian or other health service provider treating the victim of a bite. Set of rules governing the operation of the facility shall be posted at the entrance to the Dog Park and shall include the phone number of the Smithfield Animal Control Division and Smithfield Police Department. Each dog bite occurring at the facility shall be reported to Smithfield Animal Control and the owner shall be subject to the following:

For a first violation, a fine of fifty (\$50.00) dollars. For second or subsequent violations, be subject to a fine of one hundred (\$100.00) dollars. Said fines will be deposited into the Animal Control Fines and Fees Fund. The Smithfield Police Department and Smithfield Animal Control Officers shall be authorized to enforce the provisions of this Ordinance.

126-48. Dog Parks and Off-Leash Areas: General Provisions

(A) The Town of Smithfield may establish and maintain parkland to be designated for off-leash dog areas and dog parks.

(B) No person shall use a dog park for any commercial purpose. Professional dog walkers, whose business is to walk dogs for private individuals, may bring no more than two registered dogs, at any one time. Violation of this restriction shall be subject to a fine of \$50 per incident.

(C) The Town of Smithfield may designate hours for the use of the Dog Park, which shall preclude use of the park after 9 p.m. and before 7 a.m., or during hours of daylight. The Town of Smithfield may specify

times when the park will be closed so that the park can be cleaned and the park authority may mow the lawn and take care of any plants or facilities inside of a dog park or off-leash area.

(D) The Town of Smithfield may close the park for an extended time if necessary for repairs and maintenance and other necessary modifications. Notice of such closure shall be posted at the entrance of the dog park or off-leash area at least one week before the first day of such closure and shall state the reason and expected duration of the closure.

(E) The town of Smithfield shall provide or assure the installation of appropriate fencing, with a double-gated entrance area for each section of the dog park. Dog Parks may be divided into large- and small-dog sections [alternatively, small-, medium-, and large-dog sections], with the difference between the sections determined by the weight of the dog, such weight to be 25, 30, or 35 pounds. Dog Park rules may specify that individuals with both small and large dogs must use the large-dog area if one of the dogs fits in the large-dog category.

(F) The Town of Smithfield must post a notice stating that all handlers using a dog park or off-leash area do so at their own risk, and that the Town of Smithfield shall not be liable for any injury or damage caused at the dog park. This provision does not preclude a handler for seeking damages from another user of the park under either statutory or common law.

126-49. Dog Park Site Guidelines and Specifications

(A) Dog Parks in the Town of Smithfield shall be no less than five thousand (5,000) square feet in area, though off-leash areas can be of any size satisfactory to the needs of the area. Parks of less space can be considered on prior approval of the [state, county, or municipal authority].

(B) A Dog Park shall be located on well-drained land to prevent soil erosion and shall sit at least 50 feet from surface waters that drain into any river or creek; the surface shall allow for drainage away from the site in a manner that mitigates waste management issues. Where possible, under-utilized areas should be considered. [Alternatively, such restrictions should be left to the permit system of the environmental authority or local building inspector.]

(C) A Dog Park may be located near a water supply line for drinking fountain (dog and human) and for maintenance purposes. [Alternatively, proximity to water supplies should be left to an environmental authority.]

(D) The Smithfield Dog Park Ad Hoc Committee and Town Council will adopt and post rules for the Dog Park or off-leash area in type large enough to be easily read by those entering the park.

(E) A Dog Park must be ADA compliant and meet all design standards as well as laws required by ADA regulations.

126-50. Enforcement and Safety/Security

(A) A person found to be in violation of this Dog Park Ordinance and/or the Dog Park rules is subject to removal from the facility and may be prohibited from future use of the Dog Park.

(B) A person who violates any provision of this Dog Park Ordinance or Rules shall, for a first violation, be subject to a fine of fifty (\$50.00) dollars. A person who violates any provision of this Dog Park Ordinance

or Rules shall, for second or subsequent violations, be subject to a fine of one hundred (\$100.00) dollars. Said fines will be deposited into the Animal Control Fines and Fees Fund.

(C) Any act of aggression by a dog(s), including dog bites inflicted on another dog or a human(s), shall authorize the Smithfield Police Department and Animal control the ability to immediately seize customized ID card and call for immediate removal as well as all privileges associated with any future use of the Dog Park.

(D) The attendant must have in his possession at all times while inside the park the customized ID card issued by the Smithfield Police Department or Animal Control. The customized ID card shall be displayed in such a manner that it is plainly visible on the attendant's outer clothing. A video camera will be installed at the main entrance/exit of the park and will be periodically monitored by the Police Department.

(E) The Dog Park Ad Hoc Committee and designated Dog Park Monitors shall be empowered to contact the [police or other appropriate law enforcement authority] and the animal control authority to enforce dangerous and vicious dog rules and to arrange for the removal of abandoned dogs and dogs that should be impounded to determine the possibility of disease.

(F) The Smithfield Police Department and Smithfield Animal Control Officers shall be authorized to enforce the provisions of this Ordinance. Law enforcement authorities and the local animal control authority may enforce all state and municipal laws under their jurisdictions that apply to Dog Parks, which shall include the authority to remove and impound dangerous dogs, restrain and impound dogs biting individuals or other dogs for rabies inspections, arrest individuals for violations occurring in dog parks, and all other aspects of their authority that may be exercised in the area of the Dog Park.

SECTION II: This ordinance shall take effect upon passage.