

ORDINANCE NO. 2013-____ - _____

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS AMENDING CHAPTER 74, "PARKS AND RECREATION," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, THROUGH THE AMENDMENT OF ARTICLE I, ENTITLED "IN GENERAL," BY ADOPTING A NEW SECTION 74-25 TO BE ENTITLED "DOG PARK RULES"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR INJUNCTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas ("City") is a Home Rule City possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City's residents have requested that the City provide a dog park in which dogs are allowed to run at large in an enclosed area without being secured by a leash or other restraint; and

WHEREAS, the City's Parks, Recreation and Open Space Department has created an approximately 2 acre site at Bonnie Wenk Park for use as a dog park; and

WHEREAS, the City now desires to establish certain rules and regulations that will govern dog parks or off-leash sites within the City; and

WHEREAS, the City Council finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare of the citizens of the City of McKinney;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. From and after the effective date of this Ordinance, Article I, "In General," of Chapter 74 of the Code of Ordinances of the City of McKinney, Texas is hereby amended by adopting a new Section 74-25, entitled "Dog Park Rules," to read as follows:

"Sec. 74-25. - Dog Park Rules.

(a) In this section:

- (1) "Dog Park" means an enclosed (fenced) area designated by the City Council upon recommendation of the Parks, Recreation and Open Space Board, and identified as a Dog Park by signage at the entries to the fenced area, in which dogs are allowed to run at large without being secured by a leash or other restraint.
- (2) "Dangerous Dog" has the meaning given that term in Section 822.041 of the Texas Health and Safety Code, as amended.
- (3) "Large Dog Area" is an area of the Dog Park designated for dogs that weigh 25 pounds or more. Dogs weighing

less than 25 pounds may play in the Large Dog Area at their own risk, but it is not recommended.

- (4) "Small Dog Area" is an area of the Dog Park designated for dogs weighing less than 25 pounds only. Dogs weighing 25 pounds or more shall not be allowed to play in the Small Dog Area.
- (b) Signs designating an area as a Dog Park must be conspicuously posted at each entrance to the site.
 - (c) The following regulations are hereby adopted for the health, safety and welfare of the City's residents and their pets. The following regulations must be conspicuously posted at each entrance to the site:
 - (1) No person may bring into a Dog Park:
 - a. a Dangerous Dog;
 - b. a female dog in heat;
 - c. more than three dogs at one time;
 - d. puppies under 4 months of age;
 - e. a dog that is not wearing current rabies vaccination tags showing it is registered with the City and vaccinated in accordance with the provisions of this Article and Chapter 26 of this Code of Ordinances; or
 - (2) Any person who brings a dog into a Dog Park shall:
 - a. carry materials and implements for removing and disposing of pet feces and remove and properly dispose of pet feces deposited by the dog in the Dog Park in accordance with Section 26-8 of this Code of Ordinances;
 - b. before entering the Dog Park, have each dog vaccinated against rabies and have each dog's current rabies vaccination tags on the dog's collar;
 - c. lead the dog on a leash and retain the dog in custody when entering and exiting the Dog Park and while outside the double-gated entry;
 - d. allow the dog to be off-leash inside the Dog Park;
 - e. have a leash readily accessible at all times;
 - f. remove any spiked, pinch or prong collars before entering the Dog Park.
 - g. keep the dog under visual and voice control at all times while in the Dog Park;
 - h. at no time leave a dog unattended;
 - i. immediately remove the dog at the first sign of aggressive behavior;

- j. not allow a dog weighing 25 pounds or more to play in the Small Dog Area;
 - k. not carry any human food or dog food into, on or about the premises of the Dog Park (human drinks only are permitted provided such drinks are not in a glass container);
 - l. not smoke inside the Dog Park;
 - m. fill any hole that the dog digs in the Dog Park;
 - n. assume all risk and waive liability to the City for any injury or damage caused to or by pets while using the Dog Park; and
 - o. be liable for damage or injury inflicted by their dog.
- (3) The Dog Park is open from dawn to 11:00 p.m.
 - (4) Any person who brings a child less than 12 years of age into the Dog Park shall keep the child under strict supervision and must be accompanied by an adult.
- (d) A person commits an offense, punishable by a fine of up to \$2,000, if he fails to comply with any regulation set forth in Subsection (c) of this Section 74-25.
 - (e) Use of the Dog Park by any dog constitutes:
 - (1) implied consent of the owner, harborer, or person having care, custody, or control of the dog to comply with all conditions and regulations stated in this section or promulgated by the park board and posted at the off-leash site; and
 - (2) a waiver of liability to the city by the owner, harborer, or person having care, custody, or control of the dog, and an agreement and undertaking to protect, indemnify, defend, and hold the city harmless, for any injury or damage caused by the dog during any time that the dog is in the Dog Park.”

Section 3. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 4. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the enforcement of this ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally

liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

Section 6. Any person, firm or corporation who violates any section of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not in excess of \$2,000.00, and assessed court costs as provided by law.

Section 7. Any violation of this Ordinance may be enjoined, and this remedy shall be in addition to any penal provision in this Ordinance.

Section 8. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE ___ DAY OF _____, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney