

ORDINANCE NO. 2021-14

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE
CHAPTER 77**

WHEREAS, the City Council Parks, Trails and Recreation Committee and Planning Department Staff have recommended that Brevard City Code of Ordinance, Chapter 77, be amended to add Article IV, Dog Park Rules and Conduct; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is generally consistent with the City of Brevard Comprehensive Plan; and,

WHEREAS, a legislative public hearing was conducted on Monday, March 15, 2021, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code of Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code of Ordinance, Chapter 77, is hereby amended to add Article IV, as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved on this the 19th day of April, 2021.



Jimmy Harris
Mayor

Ordinance No. 2021-14

April 19, 2021

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Jill Murray
Jill Murray, CMC
City Clerk

APPROVED AS TO FORM:

Michael K. Pratt
Michael K. Pratt
City Attorney

ARTICLE IV – BREVARD DOG PARK RULES AND CONDUCT

Sec. 77-51.- Scope.

- (a) This article regulates the use of the City of Brevard Dog Park, within the Brevard Sports Complex, which is hereby established as a City of Brevard public park. This article hereby establishes the rules of conduct and is in keeping with the City's efforts to ensure safe and responsible use of recreational parks and public amenities.
- (b) Any person who participates in dog park use and activities does so at their own risk and assumes the known and unknown inherent risks in these activities, irrespective of age, and is legally responsible for all damages, injury, or death to himself or herself or other persons or property that result from these activities.
- (c) Sworn law enforcement officers shall enforce the safety regulations in this article as a part of their day-to-day duties. Nothing in the provision of this article shall prevent a sworn law enforcement officer from exercising judgment and issuing warnings to offenders as deemed appropriate.

Sec. 77-52.- Definitions of terms.

Bite means any penetration of the skin by teeth constitutes a bite exposure.

Dog Park. The Brevard Dog Park is the designated area located within the City's Sports Complex where dog owners may allow their dog to run off-leash inside the designated fenced area.

Duly authorized person, administrator, or official means the code enforcement officer, officers of the Brevard Police Department, or any other individual or person duly authorized by the city manager or local health director to act on behalf of the city for purposes of this chapter.

Grossly reckless. A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Willful disregard of rules or knowingly bringing a vicious dog with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Keeper means a person having custody of an animal.

Negligence. Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted dog park rule of conduct is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

Owner means any person or legal entity having a possessory property right in an animal. While using the dog park, the owner is the person with immediate custody of the dog.

Unregistered dog or unlicensed dog means a dog which has not been listed on the owner's tax listing form for the then-current year or registered for a vaccination tag and certification, and/or a dog which does not have affixed to it a rabies vaccination tag.

Vicious dog means any dog which has bitten one or more persons without provocation, or one in which a propensity is known or ought reasonably to be known to the owner or keeper.

Sec. 77-53.- Regulations: Negligence.

For violations of the following regulations or any other type of activity deemed "negligence" as defined in this article, the violator shall be required to pay a civil penalty of \$100.00 and may be permanently banned from using the City of Brevard's Dog Park or overarching park facilities.

1. The City of Brevard Dog Park is open from dawn to dusk as published in the most recent sunrise/sunset table of the North Carolina Wildlife Resources Commission. No person, except City of Brevard employees and authorized persons, shall be allowed within the park facility between closing and opening hours.
2. No animals other than dogs shall be brought into the fenced area of the dog park.
3. All dogs shall be leashed until safely inside the dog park fenced area and returned to a leash prior to exiting.
4. Dog owners or keepers shall remain in the fenced area while their dogs are using the dog park. Owners or keepers shall be in view of their dogs and have voice control over them at all times.
5. Aggressive dogs and female dogs in heat are prohibited for entering the dog park. Owners or keepers shall leash and remove dogs at the first sign of aggressive behavior.
6. Owners or keepers shall dispose of waste properly in the designated on-site containers.
7. Bite-sized training treats are allowed, but food in bowls, long-lasting chews and toys other than balls and frisbees are prohibited.
8. Smoking, and eating are prohibited.
9. The maximum limit shall be two (2) dogs per person, per visit.
10. Puppies less than four (4) months old are prohibited.
11. Owners or keepers shall be liable for any injury or damage caused by their dog.
12. All dog bites shall be reported to the Brevard Police Department and dog owners or keepers shall be required to assist investigations of incidents of aggression or biting by providing appropriate identification and information to the police and to all dog owners who are involved.
13. Children accompanying dog owners or keepers inside shall be strictly supervised and at least twelve-years old. Spectators should remain outside the fenced area.
14. Sick dogs are prohibited from entering the City of Brevard Dog Park.
15. Dogs shall be vaccinated for rabies and DHLPP and shall display current identification and rabies tag on the dog's collar at all times.

Sec. 77-54.- Regulations: Grossly Reckless.

- (a) For violations of an ordinance in this article deemed "grossly reckless" as defined in this article, the violator shall be subject to criminal and civil penalties as set forth in Brevard City Code, chapter 1, "General Provisions," section 1-8, "General penalty; other remedies;" and may be subject to other criminal and civil penalties as set forth in the North Carolina General Statutes.