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CITY OF DANBURY

OFFICE OF THE CORPORATION COUNSEL

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

February 19, 2015

Honorable Mark D. Boughton, Mayor
Honorable Members of the City Council
155 Deer Hill Avenue
Danbury, CT 06810

Re: City of Danbury-Off Leash-Dog Park
February 2015 City Council Agenda Item #13

Dear Mayor and Council Members:

At the City Council meeting on February 3, 2015, the Council approved the use of airport land located at Miry Brook Road for a dog park subject to five conditions - one of the conditions being the amendment of any necessary ordinances. In follow up to that condition, attached please find proposed modifications to Code of Ordinances Section 12-3 for your consideration. Please be advised that the additional enumerated conditions of approval are currently also under review by various City departments and/or Commissions.

We note at the Council meeting a question was asked of this Office regarding the City's ability to restrict admission to the dog park to city residents. As a general rule, Courts frown upon restricting access to public parks to residents. See, Leydon v. Town of Greenwich, 257 Conn. 318 (2001). It is possible under some circumstances to charge out of town residents a fee for admission to a park. However, it is our understanding that this park will not be monitored to enforce any residency requirements. Further research relative to the constitutional implications triggered by a residency requirement could be substantial. We hope this general overview is responsive to the Council's general concerns.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

Robin L. Edwards
Assistant Corporation Counsel

Attachment

cc: Laszlo L. Pinter, Deputy Corporation

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ORDINANCE

CITY OF DANBURY, STATE OF CONNECTICUT

CITY COUNCIL

_____ A.D. 2015

Be it ordained by the City Council of the City of Danbury:

Sec. 12-3. - Dogs at large; Public Dog Park; control on private property; fine.

(a) (i) No person owning, keeping or having custody of a dog shall allow such dog to be in or upon any street, park except for any public dog park designated by the City Council after considering the recommendation of the Director of Recreation, or other public place unless such dog is attached to a secure leash held continuously in the hands of a responsible person capable of controlling such dog or unless such dog is securely confined within a motor vehicle which is adequately ventilated.

(ii) Any public dog park shall be operated in accordance with such Rules and Regulations as shall be adopted by the Director of Recreation, and any owner or attendant having control of any dog present at any public dog park shall comply with all such Rules and Regulations. For purposes of this section, dog park shall mean any designated public park, with a fence or enclosed area, in which dogs under the control of their owner or attendant are allowed to exercise, play and socialize off-lease.

(iii) No person owning, keeping or having custody of a dog shall allow such dog to leave the confines of the property of the owner, keeper or custodian. Such owner, keeper or custodian shall secure the dog by means of rope or other attachment, the placement or keeping of a fence or such other means of control as shall assure the securing of the dog in accordance with the intent hereof.

(b) This section shall not apply to any dog while performing or being exhibited in a bench show or other exhibition, any dog while in the act of hunting or any dog used or kept for purposes of the public safety or any dog while present in any designated public dog park.

(c) Any violation of this section shall be punishable by the greater of a fine of fifty dollars ($50.00) or that amount set forth by state law as the maximum fine for such violation.

(d) The dog warden of the city and his duly authorized agents, pursuant to the powers vested in him by the general statutes, shall issue any citation for a violation of this section, and shall promulgate all regulations necessary and proper in executing the provisions of these sections.

COPY SHOWING DELETIONS AND NEW LANGUAGE

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Sec. 12-3. - Dogs at large; PUBLIC DOG PARK; control on private property; fine.

(a) GENERAL PROHIBITION; PUBLIC DOG PARK EXCEPTION

(i) No person owning, keeping or having custody of a dog shall allow such dog to be in or upon any street, park EXCEPT FOR ANY PUBLIC DOG PARK DESIGNATED BY THE CITY COUNCIL AFTER CONSIDERING THE RECOMMENDATION OF THE DIRECTOR OF RECREATION, or other public place unless such dog is attached to a secure leash held continuously in the hands of a responsible person capable of controlling such dog or unless such dog is securely confined within a motor vehicle which is adequately ventilated.

(ii) ANY PUBLIC DOG PARK SHALL BE OPERATED IN ACCORDANCE WITH SUCH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE DIRECTOR OF RECREATION, AND ANY OWNER OR ATTENDANT HAVING CONTROL OF ANY DOG PRESENT AT ANY PUBLIC DOG PARK SHALL COMPLY WITH ALL SUCH RULES AND REGULATIONS. FOR PURPOSES OF THIS SECTION, DOG PARK SHALL MEAN ANY DESIGNATED PUBLIC PARK, WITH A FENCE OR ENCLOSED AREA, IN WHICH DOGS UNDER THE CONTROL OF THEIR OWNER OR ATTENDANT ARE ALLOWED TO EXERCISE, PLAY AND SOCIALIZE OFF-LEASE.

(iii) No person owning, keeping or having custody of a dog shall allow such dog to leave the confines of the property of the owner, keeper or custodian. Such owner, keeper or custodian shall secure the dog by means of rope or other attachment, the placement or keeping of a fence or such other means of control as shall assure the securing of the dog in accordance with the intent hereof.

(b) ADDITIONAL EXCEPTIONS

This section shall not apply to any dog while performing or being exhibited in a bench show or other exhibition, any dog while in the act of hunting or any dog used or kept for purposes of the public safety OR ANY DOG WHILE PRESENT IN ANY DESIGNATED PUBLIC DOG PARK.

(c) FINES

Any violation of this section shall be punishable by the greater of a fine of fifty dollars ($50.00) or that amount set forth by state law as the maximum fine for such violation.

(d) CITATIONS FOR VIOLATIONS

The dog warden of the city and his duly authorized agents, pursuant to the powers vested in him by the general statutes, shall issue any citation for a violation of this section, and shall promulgate all regulations necessary and proper in executing the provisions of these sections.

Note: New language is indicated by CAPITALIZATION COMBINED WITH UNDERLINING except that capitalization is not utilized for the letters in parentheses which indicate subsections. Deleted language is indicated by strikeouts