




TOWN OF KILL DEVIL HILLS
Land Where Flight Began

MEMORANDUM

April 8, 2019

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager 

REF: New Business

2. Recommended Amendment to Chapter 94. Animals – to adopt regulations applicable to the new dog park (Attached NB-2)

Over the past several years, the Board of Commissioners has held discussions with Staff about the development of a Town dog park. With the facility nearing completion, Chapter 94. Animals will require an update to reflect the rules for operation. The dog park, located in Aviation Park, is anticipated to open at the beginning of May, and a grand opening will be scheduled.

A motion will be in order to adopt the recommended amendment.

Please note: the amendment has been reviewed and recommended for approval by the Police Department and the Town Attorney.

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,
CHAPTER 94, ANIMALS

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 94, Animals, of the Kill Devil Hills Town Code, shall be amended by adding a new section identified below, as follows:

§ 94.40 DOG PARK.

(A) *General.* The Board of Commissioners for the town hereby authorizes within the municipal limits of the town a dog park for the purpose of allowing the off-leash exercise of dogs. The Board further directs and authorizes the Town Manager to make rules and regulations for its operation that are consistent with this chapter.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL OFFICER. A sworn employee of the Kill Devil Hills Police Department's Animal Control Division.

ATTENDANT. A person 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 dog park.

DOG PARK. An enclosed fenced facility designated by the Board for the purpose of allowing dogs, under the control of their attendants, to exercise and socialize off-leash.

FACILITY. See ***DOG PARK.***

OWNER. Person having legal ownership of any dog using the dog park.

VICIOUS ANIMAL. Any animal which has a propensity or tendency to do any act which might endanger the safety of persons and property of others in a given situation.

VISUAL CONTROL. The attendant can see the dog(s) at all times.

VOICE CONTROL. The attendant 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.

(C) *Dog park operations.* Established dog park will be operated year-round on a daily basis unless closed by the Town Manager for maintenance, special events, health and safety, or severe weather. Any law enforcement officer or Animal Control Officer has the authority to close the dog park at any time for health and safety or to investigate a violation of this section or other criminal offense.

(D) *Dog park general regulations.*

(1) To ensure the safety of the dogs, their attendants and others, the following are not permitted within the fenced area of the dog park:

(a) Animals other than dogs;

(b) Aggressive dogs, those dogs deemed vicious or dogs who have a previous history of aggressive behavior toward other animals or humans;

(c) Female dogs in heat;

(d) Dogs less than four months old (note: due to vaccination advisories and recommendations for young dogs);

(e) Any dog known by its owner or attendant to be sick with an infectious, communicable illness or disease;

(f) Bicycles, roller blades, skates, skateboards, exercise equipment, radio controlled devices, strollers, children's riding toys or any other item(s) deemed unsafe or disruptive by any law enforcement officer or Animal Control Officer;

(g) Motorized vehicles and devices, except wheelchairs for the disabled;

(h) Glass containers;

(i) Alcoholic beverages or controlled substances;

(j) Tobacco products or vaping products, including electronic cigarettes;

(k) Drink or food of any type for human consumption; and

(l) Dog food, dog biscuits, dog bones, dog chews, dog treats, except training treats administered by the dog's attendant.

(2) No more than three dogs per attendant are allowed in the dog park.

(3) No dog may be permitted in the dog park without wearing a collar.

(a) The collar must have attached the dog's valid license and rabies tag. Any law enforcement officer and Animal Control Officer may inspect dogs within the park for valid and required tags at any time.

(b) Spiked collars, choke collars, prong collars and electronic collars are prohibited.

(4) An attendant must immediately remove his or her dog(s) from the dog park at any time the dog(s) become engaged in excessive barking or exhibits aggressive behavior toward any human or other dog.

(5) An attendant must use a suitable container to promptly remove any feces deposited by his or her dog(s) and properly dispose of such waste material in designated receptacles.

(6) Children under the age of 10 are prohibited from entering the dog park and all children in the dog park must be under the supervision, care and control of an attendant at least 16 years

of age or older. The attendant or adult supervising the child is solely responsible for the child's proper behavior and safety. Children who are engaged in exciting or antagonizing any dog within the dog park by any means; but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs must be removed from the dog park immediately.

(7) An attendant must have a leash in-hand at all times while inside the dog park and must have the dog(s) on said leash when outside the dog park.

(8) An attendant must fill in any hole dug at the dog park by any dog under his or her control.

(E) *Enforcement.*

(1) A violation of any of the provisions of this section shall constitute a misdemeanor, punishable as provided in G.S. § 14-4 and/or § 94.99 of this chapter.

(2) Any person in violation of any of the provisions of this section or any violation of posted dog park rules is subject to removal from the dog park and may be prohibited from future use of the dog park. Any law enforcement officer or Animal Control Officer has the authority to immediately remove any person in violation of this section or any posted rules and regulations.

(F) *Liability.*

(1) Any person using the dog park shall comply with all rules and regulations governing the use of the facility.

(2) The attendant of any dog utilizing the dog park is responsible for and liable for any and all injuries and damages caused by any dog under his or her control to any property, other dogs or other people.

(3) The attendant of any dog utilizing the dog park is assumed to have the full permission of the dog owner to have possession of said dog and to allow said dog to utilize the facility.

(4) Use of the dog park shall constitute the implied consent of the dog owner and/or attendant to all conditions of this section and shall constitute a waiver of liability to the town. As such, users of the dog park agree and undertake to protect, indemnify, defend and hold the town harmless for any injury or damage caused by, or to, their dog to any property, other dogs or other people during any time that said dog is unleashed at the facility.

This amendment to Chapter 94, Animals, shall be in full force and effect from and after the ____ day of _____, 2019. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of _____, 2019, by a vote of ____ in favor and ____ opposed.

SEAL

Sheila F. Davies, Ph.D.
Mayor

ATTEST:

James Michael O'Dell
Deputy Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 94, ANIMALS, was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2019 at _____ .m.

James Michael O'Dell
Deputy Town Clerk