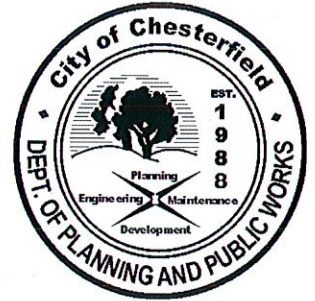


Memorandum

Department of Planning, Public Works & Parks

To: Mike Herring, CA
From: Mike Geisel, ^{met}DPPW & P
Date: 2/9/2012
Re: Dog Park, Pit Bull Clarification



As you may remember, at their regular meeting in December 2011, the Parks and Recreation Committee requested clarification regarding whether or not Pit Bulls and Staffordshire Terriers were prohibited from using the Eberwein Dog Park, or, whether they could be permitted after a determination from the Chief of Police that the animals were not dangerous.

Ordinance #2198, passed in September 2005, requires that pit bulls and those dogs of a Staffordshire Terrier breed, or any breed dog which by virtue of its past behavior (bite history) be classified as a dangerous animal and be on a leash no longer than 6 feet at any time they are not properly confined. Therefore, to allow a pit bull or other dog classified as a dangerous animal to be off-leash in the Chesterfield Dog Park, would, in fact, be a violation of the ordinance.

The rules enacted for the use of the Dog Park simply comply with this prior ordinance. By definition, you can't have a "dangerous animal" in the dog park, and you can't let a Pit Bull or Staffordshire Terrier off-lead. So, we are effectively prohibited from issuing a dog park tag for those breeds. There is no review or determination by the Chief of Police in this regard.

That does not imply that such dogs are banned from Chesterfield or Chesterfield Parks. They simply cannot be issued a dog tag for the dog park. The adopted 2012 dog park rules simply recognize the definitions and requirements as provided in Ordinance #2198. Pit Bull and Staffordshire Terrier breeds are not banned from the City of Chesterfield. Owners are free to walk their pit bulls in our parks, paths, and anywhere else other dogs are permitted; with the exception of the Chesterfield Dog Park where they are prohibited. They must do so, however, in accordance with the handling provisions of Ordinance #2198.

With your concurrence, I suggest that we forward this information to the Parks and Recreation Committee for their next meeting. If you have any questions or require additional information, please let me know.

attachment

shid
JH
2/9/12

BILL NO. 2375

ORDINANCE NO. 2198

AN ORDINANCE PROVIDING FOR REGULATION OF DANGEROUS ANIMALS WITHIN THE CITY OF CHESTERFIELD

WHEREAS, the City Council of the City of Chesterfield seeks to protect its residents;
and

WHEREAS, the presence of dangerous animals poses a threat to all residents and visitors of Chesterfield; and

WHEREAS, placing certain limits and regulations upon dangerous animals is in the best interest of the community.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Part 1. Generally.

Section 1. Classification. The chief of police or his designated representative shall classify any animal with the following characteristics as a dangerous animal for purposes of Part 1 and Part 2 of this Ordinance:

- (a) Any animal that has inflicted a severe or fatal injury on a human on public or private property. The term "severe injury" means any physical injury resulting directly from an animal's bite or attack, which results in broken bones or lacerations requiring stitches or hospitalization. The victim receiving severe injuries as defined above, must provide the police chief with a signed physician's statement documenting the injury and the treatment qualifying such as a severe injury, or sign an authorization for the release of such statement.
- (b) Any animal which has attacked or bitten a human being or domestic animal, without provocation, on public or private property other than the property of the owner.
- (c) Any animal which, while on the owner's property, has attacked or bitten, without provocation, a human being other than the owner or a member of the owner's family who normally resides at the place where the animal is kept, or domestic animal.
- (d) Any animal that, while off the owner's property, has killed a domestic animal, livestock, or poultry without provocation.
- (e) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.
- (f) Any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds, or private property other than that property of the owner, in a menacing fashion or apparent attitude of attack, regardless of whether or not a person is injured by said animal.

- (g) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.
- (h) In addition, in any administrative or judicial proceeding relating to the provisions of this section, there shall be a rebuttable presumption that any of the following are dangerous animals and may only be owned or maintained within the city in strict compliance with all provisions of this section:

Any bull terrier breed of dog, which shall be defined as any Staffordshire bull terrier breed of dog, and/or, any American pit bull terrier breed of dog, and/or any American Staffordshire terrier breed of a dog, and/or, any mixed breed of dog which contains, as an element of its breeding, genetic components of the aforementioned bull terrier breed of dog, and/or, any dog which has the appearance and characteristics and is known by the owner to be predominantly of the breeds of the bull terriers, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, and/or any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

Section 2. Notice. Within five (5) working days after classifying an animal as a dangerous animal, the chief of police or his designated representative shall notify the animal's owner of such classification, in writing. The notice shall identify the requirements and conditions for maintaining a dangerous animal as set forth in this section and part two. If the owner cannot be located, the animal may be immediately impounded and notice shall be posted at the owner's last known address.

Section 3. Appeal and hearing. If the circumstances surrounding the classification as a dangerous animal under any of the definitions listed in subsection (a) of this section are in dispute or if the animal owner contests the classification, then the owner has the option of submitting, within five (5) working days of notice of said classification, a written request to the chief of police for a hearing to contest the dangerous animal classification.

- (a) The city manager shall, within ten (10) working days after receipt of a bona fide written request, designate a hearing officer to conduct the hearing and render a decision.
- (b) Pending the outcome of such a hearing, the animal must be confined in such a manner so as not to be a threat to any person. The confinement may be on the owner's premises or with a licensed veterinarian.
- (c) The hearing officer shall determine whether to declare the animal to be a dangerous animal based upon evidence and testimony presented at the time of the hearing, in addition to witnesses, animal control personnel, police or any other person possessing information pertinent to such determination. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses.
- (d) The hearing officer shall issue a decision after the close of the hearing and notify the owner in writing of the decision. The owner or possessor of the

animal found to be a dangerous animal shall be required to maintain the animal as herein provided in this Code.

- (e) Any person aggrieved by the determination of the hearing officer may appeal the decision to the Circuit Court of St. Louis County pursuant to the provisions of Chapter 536, RSMo.; provided however, that any appeal must be filed with the Circuit Court within five (5) days of the date of the hearing officer's decision.

Section 4. Exemptions to dangerous animal classification.

- (a) The chief of police may, because of extenuating circumstances, determine from the investigation of an incident, that an animal is not dangerous. Extenuating circumstance include, but are not limited to, if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal or was committing or attempting to commit a crime. However, the owner, being responsible for said animal, shall be warned of the animal's tendencies and shall take appropriate action to prevent subsequent incidences. A determination that the animal is not dangerous does not exempt the owner from being cited for other animal control ordinance violations.
- (b) Animals owned by governmental or law enforcement agencies when being used in the services of those agencies are exempt.
- (c) Determinations that an animal is not dangerous are not binding, and upon further information or future incidents the chief of police may revise his previous decision and declare an animal dangerous.

Section 5. Actions to be taken for dangerous animals causing severe or fatal injuries.

- (a) An animal responsible for an unprovoked severe or fatal attack shall be humanely destroyed.
- (b) An animal responsible for a provoked severe or fatal attack should be maintained as a dangerous animal pursuant to other provisions of this chapter.

Part 2. Owners' responsibilities.

From and after July 13, 2005, owners or keepers of an animal that has been declared a dangerous animal may maintain the dangerous animal only subject to the following limitations, requirements and conditions:

Section 1. Registration. Not later than August 1, 2005, or immediately upon the acquisition of a dangerous animal thereafter, every owner or keeper of a dangerous animal in the

city shall register said animal with the chief of police of the city on the dangerous animal registry. Failure to so register shall constitute a violation of this section. Notice of this requirement shall be given by posting a copy of this section in city hall.

Section 2. **Rabies quarantine impoundment.** Any dangerous animal which bites or scratches a human, or any animal which is determined to be dangerous because of such biting or scratching of a human, shall be impounded for a ten-day rabies quarantine in accordance with the other provisions of these ordinances.

Section 3. Any dangerous animal shall wear at all times, a bright orange collar with a large brightly colored metal tag attached to the collar so the animal can readily be identified as a dangerous animal.

Section 4. **Loose, unconfined or missing dangerous animal.** The owner or keeper shall notify the police department immediately if a dangerous animal is loose, unconfined or missing, has attacked another animal or has attacked a human being.

Section 5. **Reporting requirements.** The owner or keeper shall notify the police department within twenty-four (24) hours of the following events:

- (a) **Death or transfer of ownership.** If a dangerous animal has been sold, given away, or otherwise transferred in ownership or possession, the owner or keeper shall provide the police department with the name, address and telephone number of the new owner or keeper, and, if the animal is kept within the city limits of Chesterfield, the new owner or keeper must comply with the requirements of this chapter. If a dangerous animal has died, the owner shall notify the police department of that fact so the animal can be removed from the dangerous animal registry.
- (b) **Birth.** All offspring born of dangerous animals within the city must be removed from the city within three (3) months of their birth or shall be registered and comply with all the requirements listed within these ordinances.
- (c) **New address.** Should the owner or keeper move from one (1) address within the corporate city limits to another address within the corporate city limits the owner or keeper shall provide notice of the new address where the dangerous animal is being kept.

Section 6. **Confinement.**

- (a) All dangerous animals must be securely confined indoors or in a securely enclosed and locked pen, kennel or other structure, except when leashed and muzzled as provided herein. The pen, kennel or other structure must be suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen, kennel or other structure must have minimum dimensions of five (5) feet by ten (10) feet and must have secure sides and secure top attached to all sides. The pen, kennel, or other

- structure must be locked with a key or combination lock when dangerous animals are confined within. The pen, kennel, or other structure must have a secured bottom or floor attached to all sides; however, if it has no bottom secured to the sides, the sides must be embedded in the ground no less than twelve (12) inches. The enclosure must also provide protection from the elements for the animal.
- (b) The enclosure, when occupied by a dangerous animal, shall not be occupied by any other animal. If the dangerous animal is a female with offspring under three (3) months of age, the offspring may occupy the same enclosure as the mother.
 - (c) All structures erected to house dangerous animals must comply with all zoning and building regulations of the city. All such structures must be adequately lifted and ventilated and kept in a clean and sanitary condition.
 - (d) No dangerous animal may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

Section 7. Signs. The owner or keeper shall display a sign on his premises that there is a dangerous animal on the property and which bears a symbol warning children of the presence of a dangerous animal. This sign shall be visible and capable of being read from the roadway from which the property is entered. In addition, a similar sign is required to be posted on the kennel or pen or fenced yard of such animal.

Section 8. Leash and muzzle. A dangerous animal may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and under the control of a responsible person. The muzzle must not cause injury to the animal or interfere with its vision or respiration but must prevent it from biting any person or animal.

Section 9. Insurance. The owner or keeper of a dangerous animal shall present to the police department proof that the owner or keeper has procured liability insurance in a single incident amount of at least two hundred thousand dollars (\$200,000.00), for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal covering the twelve-month period during which licensing is sought. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner or keeper at all times. This policy shall contain a provision requiring the City of Chesterfield receive ten (10) days' written notice by the insurance company prior to any cancellation, termination, or expiration of the policy.

Section 10. Photographs. All owners or keepers of dangerous animals, must, within ten (10) days of such classification, provide the police department with two (2) color photographs (one (1) showing the left profile and the other showing the right profile) of the animal, clearly showing the color, distinguishing markings, and approximate size of the animal.

Section 11. Compliance, violations and penalties.

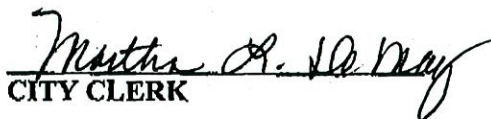
- (a) It shall be unlawful for the owner or keeper of a dangerous animal within the City of Chesterfield to fail to comply with requirements and conditions set forth in this section. Any animal found to be in violation of Part 1 or Part 2 of these ordinances may be, in addition to other penalties provided by the Municipal Code, subject to immediate seizure and impoundment for a minimum of ten (10) days or the time necessary for the owner or keeper to show compliance with this section, whichever is shorter.
- (b) Any person found guilty of violation of any provision of this section shall be, for each offense, fined not more than one thousand dollars (\$1,000.00) or be punished by imprisonment in jail not to exceed twelve (12) months or be punished by both fine and imprisonment.
- (c) In addition to any penalty as provided above, the court shall order the registration of the subject dangerous animal revoked and the animal removed from the city. Should the defendant refuse to remove the animal from the city, the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

Section 12. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 19th day of September, 2005.


MAYOR

ATTEST:


CITY CLERK



BEACH, STEWART, HEGGIE, MITTLEMAN & CURTIS, LLC

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4b

July 12, 2005

Mr. Michael G. Herring
City Administrator
City of Chesterfield
690 Chesterfield Parkway West
Chesterfield, Missouri 63017-2079

Re: Dangerous ^{Animals} Dogs

JRM
7/13/05
cc: Ray J.
NEXT PHTS Agents

Dear Mike:

I am following up on a number of different issues that are being discussed. One such issue deals with dangerous animals. Several pro forma Ordinances have been developed and we are passing on for your consideration a proposed Ordinance, which would regulate "dangerous animals" within the City of Chesterfield. This may or may not be something we are interested in, but we thought it would be appropriate to forward this on so we might be ahead of the curve rather than being reactionary if something happens.

Let me know.

Very truly yours,

Douglas R. Beach

DRB/jrc

* Also admitted in Illinois
+ Fellow of the American Academy of Matrimonial Lawyers
† Fellow of the American Academy of Adoption Lawyers