

Subject: RE: Pet Committee

From: "Milton L. Chappell" <mlc@nrtw.org>

Date: Wed, 16 Sep 2009 01:20:49 -0400

To: John D Roth <jroth4@comcast.net>, LAWRENCE BERUL <LBERUL@yahoo.com>, <LULUP722@aol.com>

CC: "parkdreams@lycos.com" <parkdreams@lycos.com>

John, you raise good questions, some of them I've addressed in the following discussion on the current topic: dog size. When we resolve the dog size issue, I believe we will need to deal with the registration and tagging issue, among others.

Margot Chappell's Comments on the Dog Size Issue:

Not counting the comments from the four committee members, we received only six comments. None of those comments specifically discussed small dogs, although Committee Member Berul noted there is a definition of small dogs in the Hartz food manual. These comments discussed various aspects of dogs, without mentioning size. Clearly, dog size is not an issue and there is no outcry to enforce the "small dog" provision of the bylaws. Moreover, none of the six mentioned any dog attacks, although Committee Member Polizzi did mention the "near" attack by a small white Scottish Terrier on her two Boxers.

Although our bylaws mention "small" dogs, any restriction on "large" dogs has not been enforced or even mentioned for at least 12 years, if not longer. It wasn't until I got John's original e-mail about the recent situation with his sweet dog that I was even aware that our bylaws mentioned "small" dogs. We knew that renters could not have dogs, while owners could. That is precisely why we bought at 9400 -- because we were tired of having to leave our dog behind when we came to Ocean City. When we bought at 9400 in 1997 no one mentioned that our black Chow Chow was precluded from the building by the bylaws because he wasn't a "small" dog. In fact, everyone has welcomed and only had positive things to say about, first, Midnight, and now, Mango and Moonlight. Moreover, as the comments and my recollection demonstrate, the "small" dog provision has not been a pressing issue during those 12 years, either.

As the various animal control laws recognize, it's not the size of the dog that matters, it's the behavior of the dog. For instance, Ocean City bans all dogs, not just large dogs, on the boardwalk and beach from May 1 to September 30. The comments we received are in agreement that we should be regulating behavior. They are silent about size. On a personal level I have a problem with anyone or any thing being judged solely on its size. We could compile charts and bar graphs comparing size, temperament, trainability, stubbornness, affection, children friendliness, sociability, etc. All this information would prove nothing. What is important, as Committee Member Polizzi explained, is the proper socializing and training of the dog and its owner.

People are very dedicated to their animal companions. My perception is that a majority of the active owners at 9400 have pets and bring their pets to enjoy while they are at the

condo. The majority of these pets seem to be dogs. To now strictly enforce the "small" dog rule would be cruel and unusual punishment for the owners of non "small" dogs, however that may be defined. To force these owners to now either try to enjoy their 9400 condo without their "large" dog companions or sell their condo is ridiculous -- especially when this drastic step would be taken because of one regrettable and traumatic, but not illegal, incident. Practically speaking, it can't be done.

Unlike some jurisdictions in Maryland, neither Worcester County nor Ocean City specifically regulates or covers animal-to-animal bites, like occurred to John's dog. The Worcester Animal regulations, which do not apply in Ocean City, can be found at http://gcp.esub.net/cgi-bin/om_isapi.dll?clientID=102476&infobase=worcest.nfo&softpage=Browse_Frame_Pg42 and the Ocean City regulations are reproduced at the end of this e-mail. Thus, only animal-to-human bites are covered. In addition, no animal control statute or regulation restricts dogs by size. Instead, it is the behavior of the dog that is regulated. For instance, in Montgomery County, an animal-to-animal bite is one of the criteria for determining a dangerous or vicious dog and unwanted contact. *See* <http://www.montgomerycountymd.gov/poltml.asp?url=/content/pol/districts/MSB/animal/summarylaws.asp> For the State of Maryland *see* <http://www.edgarsnyder.com/accidents/dogbite/dogbite-law/maryland.html>.

Deciding not to enforce the "small" dog provision, however, does not mean that 9400 should not strengthen its pet regulations and enforcement. Although there were some differences in the details, the comments were unanimous that we need to strengthen, monitor and enforce reasonable pet regulations. While we will need to iron out the details at a later time, I believe that 9400 should restrict all four-legged pets to those who have been properly registered and tagged by the condo owner each year. An annual fee of perhaps \$50.00 would be charged per pet, thereby raising money for the condo association. This registration would also include proof that the pet is properly licensed in the appropriate jurisdiction, including the required vaccinations and shots, along with the owner's written agreement to be personally responsible for any inappropriate behavior of the registered pet, indemnify the condo association, and pay any fines. Like the local animal control regulations, there should also be restrictions on inappropriate behavior and the power of the condo board to either muzzle or remove offending violators from the common areas and to impose fines based on the specific facts of the incident/violation.

To this end, all pet incidents should be reported to the condo management, board and Ocean City animal control. Ocean City animal control has procedures for investigating animal incidents and handling aggressive animals and civil or criminal infractions. *See* OC Animal Code below. Reporting the incident to Ocean City animal control creates a detailed report of the incident which should be shared with the board and condo owners.

Having the condo owner register and take financial responsibility for the pet, along with paying the registration fee, resolves questions about pet ownership. If the condo owner

wants to do that for his children's pet, so be it. The condo association has better and easier control of and power over condo owners than it does guest and other nonowners. As the comments demonstrate, people are very dedicated to their animal companions. People buy beach condos to share with their families and their families' pets. As Alan Kreshtool admitted, and Pat Critzer recognized, people are going to allow their children's dogs so we might as well require the condo owner to register them and agree to abide by the rules and accept the penalties that we set up.

Here are the Ocean City Animal Control Officer Information and the relevant portions of the Town of OC Animal City Codes.

D. Spence, ACO 8983

OCPD Animal Control Unit

410-723-6649

<http://oceancitymd.gov/>

TOWN OF OCEAN CITY ANIMAL CITY CODE

Chapter 6.

ANIMALS*.

Sec. 6-3. Disturbance of persons..

(a) It shall be unlawful for an owner or person having possession of an animal or any other person to allow an animal to disturb the quiet of a person or neighborhood by barking, whining, howling, crying, squawking, whistling or any other unreasonably loud noise in a continuous manner.

(b) A violation of the provisions of this section shall be a municipal infraction subject to the provisions of section 1-8 of this Code.

(Ord. No. 2000-28, 9-5-2000).

DOGS.

Sec. 6-31. Title. .

This article shall be known as the "Dog Control Ordinance." .

(Code 1972, § 23-1) .

Sec. 6-32. Definitions. .

The following terms, wherever used herein, shall have the respective meanings assigned to them in this section unless a different meaning clearly appears from the context: .

Animal Control Officer. Any officer or agency, public or private, designated by the Mayor and City Council of Ocean City, Maryland, as having the responsibility for the administration of any or all of the provisions of this article. .

Impounding charges. Those charges which must be paid by the owner, authorized agent or other person making claim to and accepting the responsibility of such dog. .

Owner. Any person having a right of property in a dog, or any person who keeps or harbors a dog, or has it in his care or permits it to remain on or about any premises occupied or controlled by him. .

Running at large. Any dog off the premises of its owner and not under the immediate control of the owner or person designated by the owner as his agent.

Seizure. The taking into custody or codesignated person, pursuant to the provisions of this article. .

Transferred. The transfer of a dog from municipal facilities and municipal control and custody to Worcester County facilities and Worcester County custody and control. .

Under control. Leashed dogs; hunting dogs while actually being utilized for hunting or being trained for hunting; dogs while actually appearing in any show or exhibit at the Ocean City convention center and while at said convention center; K-9 dogs belonging to a law enforcement agency or members thereof while said dogs are actually on duty; any dog who is trained to be responsible to the commands of the owner or agent who must be present; and all dogs while on the property of their owner or authorized agent. .

(Code 1972, § 23-2) .

Sec. 6-33. Fees and charges. .

The fees and charges, excluding fines, as herein specified shall be as follows: .

- (1) Boarding fee: \$4.00 per day. .
- (2) Owner notification fee: \$2.00. .
- (3) Impounding fee: \$25.00 for the first impounding in any year, \$50.00 for the second impounding, and for each impounding thereafter the impounding fee shall be doubled. .
- (4) Adoption fee: Payment of all other fees and charges due, plus \$10.00. .

(Code 1972, § 23-5.1) .

Sec. 6-34. Unlawful acts. .

It shall be unlawful for any owner or person having possession of a dog, or for any other person, to: .

- (1) Fail to do any act required herein to be done. .
- (2) Fail to acquire a license, as herein provided, for any dog required to be licensed. .
- (3) Alter a license certificate or tag. .
- (4) Place any license tag on any dog other than the dog described on the application for said license and for which the license was specifically obtained. .
- (5) Make a false declaration or statement in applying for a dog license.
- (6) Deny ownership or control of any dog which is in fact so owned or controlled by the person so denying said ownership or control. .
- (7) Refuse to give or deny his identity to any authorized person, Animal Control Officer, police officer or other law enforcement agent or process server, in order to escape service of a summons or warrant of arrest, replevin or other order of seizure for a dog. .
- (8) For any person to resist, hinder, molest or otherwise interfere with authorized persons performing duties in enforcing the terms and provisions of this article and chapter. .
- (9) Abandon a dog within the corporate limits of Ocean City or leave a dog without proper supervision or care and without sufficient food, water or shelter for a period of more than 48 hours. .
- (10) Injure a dog and fail to stop and give all possible aid if, from the circumstances, the person so injuring a dog has knowledge or reasonably should have knowledge of such injury. .

(11) Dogs. .

a. For an owner of a dog to allow said dog to destroy, damage, injure or deface shrubbery, plants, flowers, grass, lawn, terrace, beach or any other valuable thing in or on any public property or any other person's private property, or to upset, distribute or get into any garbage or trash receptacle or container, public or private. The waste products of a dog's digestive system shall be presumed to destroy, damage, injure or deface such shrubbery, plants, flowers, grass, lawn, terrace, beach or other valuable things. .

b. For any person or owner in possession of a dog to walk or exercise such dog without being in possession of a container sufficient to remove dog excreta. .

c. For any person or owner in possession of a dog to fail to remove any of said dog's excreta deposited on the beach, boardwalk, public ways, recreational parks or other property, public or private, not owned by the person or owner in possession of said dog. .

(12) For any person or persons to break open, or in any manner directly or indirectly to aid, counsel or advise another to break open, a dog collection vehicle, cage, shelter, pound, run or building where dogs are retained or boarded pursuant to this chapter requested or demanded by any member of the Police Department, an Animal Control Officer or other designated official. .

(14) For any person with fraudulent intent to deliver to a police officer, the Animal Control Officer or other designated official any dog for the purpose of gaining future ownership of or title to the same. .

(15) For any person to deny ownership or possession of any unlicensed dog, to conceal a dog suspected of rabies or to refuse to produce a dog suspected of rabies after said person is aware of such suspicion. .

(16) For any person or owner in possession of a dog with knowledge that said dog has bitten a person or is suspected of having bitten a person to fail to immediately report said bite to the Police Department or Animal Control Officer and to fail to produce the dog forthwith. .

(17) For anyone other than the owner or a member of the Police Department, Animal Control Officer or other designated official to remove a license tag from a dog. .

(18) For an owner to permit his dog to traverse or be on public property or property of others without wearing his license tag. .

(19) Allow an unleashed dog to be on the public streets, ways or other public property, except under subsection (25) of this section, or on property of others; and, in no event, shall a leash exceed eight feet in length. .

(20) Keep or maintain a dog that is over six months of age without a current rabies inoculation. .

(21) Intentionally poison, shoot or otherwise kill any dog or to knowingly place or leave any poisonous substance of any kind or ground glass in any place with intent to injure or kill any dog, except that an owner may humanely terminate his dog's life, and nothing in this subsection shall prohibit the Animal Control Officer or Police Department from destroying a dog pursuant to other provisions of this chapter. .

(22) For an owner to allow an unleashed female dog in oestrus (in

season) to be on public property or the private property of others, out-of-doors, unless said female is confined within an enclosure of wire, boards or other material designed to prevent entry without human assistance. This subsection shall not apply if said dog is being transferred to a place of medical treatment, boarding kennel or breeding establishment under the control of its owner or the owner's agent. .

(23) Permit his dog to be in any public recreational area unless such dog is controlled by leash, except in an official off leash area established by Mayor and City Council of Ocean City. .

(24) Allow a dog to be on the public beaches or boardwalk of the municipality during the period from May 1 through September 30 of each year. .

(25) Allow a dog to run at large on the public beaches of the municipality from October 1 through April 30 of each year. .

(Code 1972, § 23-5.2; Ord. No. 1999-13, 4-15-1999; Ord. No. 2007-15, 7-2-2007) .

State Law References: Authority relative to dogs, § C-414(20). .

Sec. 6-35. License required; licensing procedure..

(a) License required. All persons owning or harboring a dog over six months of age, within the corporate limits of Ocean City, shall obtain a license for said dog as provided in subsection (b), unless either of the following exemptions apply: .

(1) A dog wearing evidence of a valid license issued by another governmental subdivision, provided that: .

a. The dog remains in this jurisdiction for less than 30 consecutive days. .

b. The dog's owner is not a resident or qualified voter in Ocean City. .

c. The dog is wearing evidence of a current rabies inoculation. .

d. The name and address of the owner is displayed on the dog. .

(2) A leader dog accompanying a person afflicted with blindness, provided that said dog has been inoculated for rabies. .

(3) K-9 dogs owned or controlled by the Police Department of any governmental subdivision when said dogs are in Ocean City as a police function. .

(b) Licensing procedure..

(1) Every person owning or harboring a dog or dogs within Ocean City, not exempted above, shall make application on or before Provided. Such application shall be made to Ocean City. Each such application shall include the name, sex, breed, age, color and description and markings of each dog and shall also include the date of the dog's last rabies shot, proof of same, where said shot was given, by whom, and the name and address of the person so owning or harboring said dog. In the case of any dog that becomes six months of age after July 1, said application shall be made within 30 days after said dog becomes six months of age. All such licenses shall be annual from July 1 through June 30, which shall be the license year. .

(2) The Finance Department of Ocean City shall have the responsibility for providing application forms, receiving applications and issuing dog licenses. .

(3) The dog license fee shall be \$5.00 annually or such other figure as the Mayor and City Council may, from time to time by resolution, specify. The fee for any dog license that is required during the first half of any license year shall be the full fee. If a license is required at any time during the last half of any license year, the fee shall be one-half the annual fee. License applications may be made from June 1 through July 31 of the following license year without penalty. When an application is made after July 31 and the dog was subject to licensing prior to that date, a penalty, in addition to the cost of licensing, shall be charged as follows: .

a. Up to two months late: \$1.00. .

b. Two to four months late: \$2.00. .

c. Over four months late: \$5.00. .

(4) Dog licenses and tags shall be provided by the Finance Department, and each such tag shall contain the year of issuance, the name of Ocean City and the number of the license.

Such information shall also be included on the license certificate which shall be furnished to the owner or the person harboring said dog. .

(5) In the event a license tag is lost, a duplicate shall be obtained from the Finance Department at a cost to be determined by him. No tag shall be transferred to any dog other than the dog for whom it was issued originally. .

(Code 1972, § 23-3) .

Sec. 6-36. Seizure; custody and reclaiming of seized animals..

(a) Any unlicensed dog not exempted by section 6-35(a)(1), (2) and (3) may be seized by any member of the Ocean City Police Department or Ocean City Beach Patrol, an Ocean City Animal Control Officer or any other designated Ocean City official duly authorized by resolution of the Mayor and City Council to seize said dogs. Any dog running at large, whether or not licensed, may also be seized. Any dog not wearing or displaying a license tag, when same is required, shall, for the purposes of this article, be considered as unlicensed. .

(b) Any dog on the public beaches or boardwalks of Ocean City, whether leashed, under control or running at large during the period from May 1 through September 30 of each year, may also be seized. .

(c) A dog so seized shall be kept at a municipal shelter or facility for a period of not less than one week, and at the end of said one week, if not claimed, may be transferred to the Worcester County Humane Society or the Worcester County facilities for custody, control and disposition. The Animal Control Officer, at his discretion, may, after said one-week period, and if said dog is properly inoculated, offer said dog for adoption. Any person so adopting such a dog shall obtain a license therefore prior to taking custody of said dog and pay all charges and fees due, plus an adoption fee as herein specified. .

(d) A dog in custody at the Worcester County Humane Society may be reclaimed by his owner between 8:00 a.m. and 10:00 a.m. Monday through Friday or by appointment with the Animal Control Officer or designated Police Department official. In order to reclaim such dog, the owner or agent of the owner shall present proof of ownership satisfactory to the Animal Control Officer or designated Police Department official; shall pay all fines, fees, boarding charges, veterinarian moneys due as fees or collateral; and shall have said dog inoculated for rabies, if necessary, and obtain a license if one is required. If the said dog must be inoculated, the owner shall, prior to taking possession of said dog, either have said dog inoculated or deposit \$25.00 as collateral with the Animal Control Officer or designated Police Department official, which said collateral sum shall be returned to the person so depositing same upon receipt of evidence of the dog's inoculation satisfactory to the Animal Control Officer or designated Police Department official. .

(Code 1972, § 23-4) .

Sec. 6-37. Dog bites; diseased and vicious dogs; dogs difficult to seize..

(a) Dog bites. Any person owning, harboring or having possession of any dog and having any knowledge that said dog has bitten any person shall immediately report this act or suspected act to the Police Department or Animal Control Officer and furnish them, insofar as is known, the name of the person bitten, his or her description, the address and/or location where they can be contacted, the location where the biting occurred, the date of the last rabies inoculation of said dog and the name and address of the veterinarian or other person administering the inoculation. Proof of such inoculation shall be furnished to the Police Department or Animal Control Officer. .

(b) Reclaiming diseased or vicious dogs. No dog that, in the opinion of the Animal Control Officer, has vicious tendencies, rabies or any questionable disease which may be injurious to humans shall be allowed to be reclaimed until checked by a veterinarian and certified to be safe. If so certified to be safe, such dog may be reclaimed, provided that all fees, fines, veterinarian fees, etc., are paid. .

(c) Destruction of diseased dogs. Any seized dog which, after examination by a veterinarian, is found to be suffering from rabies, hydrophobia or other disease, and which in the opinion of the veterinarian either is incurable and terminal or is a present serious danger to humans or other living creatures, may be destroyed by said veterinarian. If the owner of the dog is known, he shall be contacted and informed of the decision of the veterinarian before said dog is destroyed. .

(d) Dogs difficult to seize. Any stray, licensed or unlicensed, vicious, unwanted or diseased dog, who has evaded capture and is considered by the Animal Control Officer to be a danger to the public, may be captured by the Animal Control Officer by the use of a tranquilizing gun. If, in the opinion of the Animal Control Officer or any police officer, an unleashed dog is suffering from rabies and said dog is in an area where it may come into direct contact with humans, said dog may be immediately destroyed in order to protect the safety of the general public. .

(Code 1972, § 23-6).

State Law References: Disposal of Impounded Animals, Ann. Code of Md.

art. 27, § 67B..

From: John D Roth
Sent: Tue 9/15/2009 8:55 PM
To: Milton L. Chappell; LAWRENCE BERUL; LULUP722@aol.com; John D Roth

Subject: Pet Committee

Hello, Committee Members.

I'll be in Ocean City this weekend and I'll try to get from Nancy a list of all owners who bring their dogs to 9400.

Margot, can you give us a little bit more on what you mean by registration and tagging? It seems to me that by registering a dog and giving that dog a tag, we indicate our acceptance and approval of that dog. There are some dogs currently in the building that don't meet the standards set in the by-laws. We may eventually find a way to validate those dogs or we may find that we want to strictly enforce the by-laws. I think it might be more appropriate to solve that issue prior to issuing tags to all dogs.

What do we mean by registration? Do we make an official list of dogs approved for the building, maybe take their picture, and then issue a tag? Or do we just issue a tag to anyone with \$2.00? Do we associate a specific tag with a specific dog (e.g. issue numbered tags?)

When you say that all dog VISITING the building do you mean all dogs, owned by 9400 owners, that come to the building with their owners? Or does your proposal indicate that we should register and tag dogs that, for instance, are owned by an adult child of an owner and come with the adult child to the building while the unit owner is present (e.g. a temporary tag?)

What do you think?

JR