

ARTICLE II. KENNELS

Title

The title of this article shall be “Kennel Law of the Town of Gardiner, Ulster County New York.”

LEGISLATIVE INTENT

It is the intent of this article to set forth regulations regarding the establishment, maintenance and operation of dog kennels and other dog boarding facilities and further to enable the Town to maintain an ongoing record of commercial and noncommercial kennels, and further to provide for the healthful and humane treatment of dogs in kennels. It is also the intent of this law to ensure that the rights of Gardiner residents to the peaceful enjoyment of their property is protected.

In addition, the Puppy Protection Act of 2021(S.1385) establishes minimum standards of care regarding the care and breeding of dogs. Whenever doubt occurs as to the standards outlined in this law or a discrepancy between the two laws occur, the higher standard of care will apply.

Puppy mills are banned in the Town of Gardiner. Breeding of dogs for the purposes of fighting or bait is expressly prohibited.

LEGISLATIVE AUTHORITY

This article is pursuant to the Municipal Home Rule Law.

DEFINITION OF TERMS

As used in this chapter, the following words or phrases shall have the following respective meanings:

BREEDER. A person who

- (1) Publicly or privately sells or offers for sale any dog belonging to another person for consideration, a fee or a commission or percentage of the sale price;
- (2) Transfers dogs at wholesale or resale to another; or
- (3) Offers or maintains dogs at wholesale for resale to another

DOG. A live *Canis lupus familiaris* or any dog hybrid. Coyotes, wolves, foxes or any hybrid mix of the same do not fall under this definition.

EXCESSIVE BARKING. When a dog creates a noise, by barking or otherwise, which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of a person (for instance, barking for more than 10 minutes at a time more than 4 times per day, barking after 10 p.m. or before 7 a.m.).

FOSTER HOME. Any facility, private or commercial, where dogs are cared for by an individual or entity and when the dogs are owned by a rescue or third party entity.

GIANT BREEDS. Dogs of over 100 pounds.

HABITUAL OFFENDER. Includes any owner who has pleaded guilty to, or has been found guilty of, three major offenses in a twelve-month period.

KENNEL. A structure which complies with the Code of the Town of Gardiner and which is intended for or used for the housing of dogs.

KENNEL, COMMERCIAL. Any location within the Town of Gardiner wherein five or more dogs over four months of age are kept or maintained for any commercial purpose, including but not limited to boarding, grooming, letting for hire, training for a fee or selling. Breeding dogs for commercial purposes is not allowed. Notwithstanding the foregoing, the following facilities shall not be deemed commercial kennels: town animal shelter; animal hospitals, unless engaged in commercial boarding; and groomers, unless engaged in commercial boarding.

KENNEL, MIXED. Any location within the Town of Gardiner wherein less than five dogs are taken in for purposes not limited to boarding, training, breeding, grooming, or training in a setting which may or may not including dogs already in residence belonging to the owner of said property. These services may or may not be for remuneration.

KENNEL, NONCOMMERCIAL. Any location within the Town of Gardiner wherein between five and ten dogs which are over four months of age are kept or otherwise are allowed to reside. The sole purpose or outcome of keeping said animals shall provide personal recreation, enjoyment or use by the owner not resulting in direct or indirect compensation, profit or gains. A kennel under such definition must be licensed, fee waived. This term includes private breeding facilities that do not fall within the definition of commercial kennel (i.e., where animals are not bred for commercial purposes or for sale) and does not include an animal hospital.

MAJOR OFFENSE. Any other violation of Chapter 80, Article II, of the Code of the Town of Gardiner.

MINOR OFFENSE. Failure to secure appropriate documents for the operation of a kennel.

OFFENDER. The owner of any kennel or owner of lands upon which any kennel is located who fails to comply with Chapter 80, Article II, Kennels, of the Code of the Town of Gardiner.

PUPPY MILLS. Overcrowded or unsanitary breeding facilities which mass-produce puppies that are typically sold when eight weeks old or younger.

RESCUE ORGANIZATION. Any facility where homeless, stray, abandoned, rescued or unwanted animals are received, harbored, maintained or made available for adoption to the general public and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare, protection or humane treatment of animals.

RESCUE ORGANIZATIONS NETWORKS (FOSTERING). Any person or persons who houses animals at the request of a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare, protection or humane treatment of animals who accepts companion animals for the purpose of finding permanent adoptive homes for animals and does not maintain a central facility for keeping

animals, but rather uses a system of fostering in private homes or boarding or keeping pets in animal shelters.

All other words and phrases used in this chapter shall have, for the purpose of this chapter, the meanings respectively ascribed to them by Chapters 80 and 220 of the Code of the Town of Gardiner, by §108 of the New York Agriculture and Markets Law, and the Federal Animal Welfare Act (7 U.S.C. 2131 et seq.)

B. APPLICATION

An application for a dog kennel license shall be accompanied by a site plan and a management plan prior to consideration by the Planning Board. The management plan shall be reviewed by the Dog Control Officer for compliance.

C. STANDARDS:

The verification of the standards outlined below will be assessed at an inspection by both the Town Building Inspector and the Dog Control Officer in the following manner:

- a. All requirements pertaining to the structural standards shall be reviewed onsite prior to the issuance of a license.
- b. All requirements pertaining to the operations of the kennel shall be reviewed prior to the opening of the kennel and again at a time to be determined by the Animal Control Officer but no later than two months after the first dogs are present.

A kennel shall be permitted in the Town of Gardiner in its designated residential/agricultural district only under the following conditions:

HOUSING

- a. All animals shall be kept in clean and sanitary premises, structures or enclosures. Animal waste shall be removed at least once daily. Animals and personnel must be protected from any noxious agents. A program to control, eliminate, and prevent infestation of vermin shall be implemented.
- b. The ambient temperature shall be consistent with the requirements of the specific companion animals. Minimally heating shall be deemed needed if the ambient temperature of the facility falls below fifty (50) degrees Fahrenheit for a period of four (4) consecutive hours. Cooling shall be required when the temperature of the facility rises above eighty (80)degrees Fahrenheit.
- c. All facilities shall be adequately ventilated with fresh or filtered air to minimize drafts, odors and moisture condensation and to provide for the health and comfort of the animals at all times. Facilities shall have a minimum of three(3)room air changes per hour. Room air shall not be recirculated unless it has been properly treated. Ventilation shall be provided by either natural or mechanical means. The

necessary equipment or comparable means shall be provided to exhaust the air from the animal area to the outside of the building.

d. Uniformly distributed natural and/or artificial lighting shall be provided to permit routine inspection and facilitate routine cleaning and the proper care and maintenance of the animals. Lighting shall be so arranged as to protect each animal from excessive illumination. Emergency lighting shall be provided.

e. One inside pen shall be provided for each dog boarded or kept. In the case of bonded pairs, or mother or father dogs who may be housed with their puppies, the pen size shall be equal to the space provided as if each dog were housed separately.

f. Housing shall provide for sanitary and safe dwellings for dogs, and shall provide adequate space appropriate to the age, size, weight, and breed of the dog, and that allows the dog to engage in normal body movements, including the ability to sit, stand up, turn about freely, or lie fully recumbent in a natural position. The enclosure shall be high enough to permit the dog to stand on his or her hind legs without touching the ceiling. The enclosure shall provide solid flooring. Flooring must be safe for the breed, size, and age of the dog and be free from protruding sharp edges. All indoor spaces in which dogs are to be housed for any period of time shall be soundproofed.

1. Each dog, if housed in a primary enclosure, whether housed alone or with other compatible dogs, shall be provided a minimum amount of space, calculated as:

12 square feet of indoor space per each dog measuring not more than 25 inches long

20 square feet of indoor space per each dog measuring not more than 35 inches long

30 square feet of indoor space per each dog measuring not less than 35 inches long

a. For non-breeding dogs housed together, the primary enclosure shall provide 100 percent of the required space for each dog, if maintained separately.

b. Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accord with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than five (5) percent of the minimum requirement for the bitch, such housing must be approved by the Board/Agency.

g. For every three (3) inside dog pens there shall be a minimum of one (1) outside. The outside pen shall be equal in size or greater than the indoor pen for the same dog.

h. There shall be a minimum of one (1) outside run per three (3) dogs boarded or kept. To the greatest extent possible, dogs that have been deemed compatible to socialize shall be allowed group access to large outside enclosed areas other than runs. For dogs that are aggressive or otherwise incompatible with other dogs, or for any other reason cannot share a space, there shall be only one such dog in a run at a time.

i. Each outside run shall: have a concrete base; be enclosed by a minimum six (6) foot high chain link fence with shelter and with secure gates; the size of the run shall be four (4) feet in width and ten (10) feet in length except for dogs of the size of 100 lbs. or more or its equivalent. For dogs 100lbs. or more, the run shall be six (6) feet in width and twelve (12) feet in length. Barriers shall be in place to block a dog's view of adjoining dogs if outdoor pens are side by side.

Fencing for dog enclosures shall take into account the size of the dog. Such fencing shall be tall enough to prevent dogs from surmounting the fence. Fencing enclosing large dogs(over 60 lbs)shall be a minimum of 6 feet in height.

j. Sewage and waste shall be disposed of by connection of drains to a sanitary sewer or a state, county or locally approved sewage disposal system. Drainage systems shall be provided with backflow prevention devices on submersible inlets and hair traps, if required by law, on all plumbing lines in animal areas where hoses may be attached for cleaning of the facility. All excreta, feces, debris, and food wastes must be removed from enclosures, at least once daily, and from under primary enclosures as often as necessary, to prevent an excessive accumulation of feces and food waste, to prevent soiling of dogs contained in the enclosure, and to reduce disease hazards, insects, pests and odors. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Waste must be handled and disposed of in a manner that poses minimal hazards to dogs and personnel, and reduces the likelihood of contamination of the soil or ground water with chemicals and/or microorganisms.

k. Bedding shall be appropriate, free of toxic chemicals or other substances that could injure animals or personnel, and of a type not easily eaten by animals. Disposal of used bedding shall be consistent with best practices, in order not to attract other animals. Odors emanating from used bedding shall be eliminated, disguised or otherwise prevented from release into the air.

l. A facility can only be established on at least five (5) acres of property located at least one hundred (100) yards from any adjoining property lines or roadways. If the property is irregular in shape, buildings should be located at the maximal distance away from neighboring residences to the greatest extent possible. A facility cannot be established within a one-mile radius of the property boundary of any existing commercial breeding facility.

m. No dog shall be left unattended for more than 12 consecutive hours at a commercial or noncommercial kennel.

n. All dogs in any kennel shall be contained within an appropriate kennel building between the hours of 8:00 pm and 8:00 am, local time, each day. Noise generated by dogs at the kennel shall not be excessive or persistently occurring or continue to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of the neighbors.

o. No person shall allow dogs temperamentally or otherwise incompatible to be quartered together, or so near each other, as to cause injury, fear or torment.

BEHAVIORAL REQUIREMENTS

The following behavioral needs shall be met at least daily, except as stated otherwise. All persons should have a documented protocol regarding how to meet the following necessary behavioral needs, and sufficient facilities and/or staff to meet them.

The goal shall be to allow dogs the opportunity to partake in species-specific behaviors. Dogs shall not be housed for extended periods of time in a manner devoid of any enrichment and/or activity and/or social contact.

Conspecific socialization – Dogs shall be provided with full-body physical contact with other compatible dogs daily, except as necessary for reasons such as veterinary treatment or quarantine, or prior to parturition for a bitch. If a grouping of certain dogs results in excessive barking or aggressive behavior, such grouping should be terminated. Prior to weaning, a bitch and her litter shall fulfill all conspecific socialization needs among the group.

Human socialization – Dogs shall be provided with a minimum of but not limited to 30 minutes daily positive human contact and socialization. Contact during feeding time alone is not sufficient to meet this requirement. Time with a veterinarian shall not be included in that time calculation.

NUTRITION

a. Animals shall have access to fresh, potable, uncontaminated unfrozen drinking water.

m. Animals shall be fed palatable and nutritionally adequate food at least twice daily or according to their particular needs. Food and water receptacles shall be readily accessible to all dogs and shall be located to minimize contamination and to protect them from precipitation. Any non-disposable receptacles shall be durable, cleaned daily, and sanitized at least once per week; disposable receptacles shall be replaced daily, and automatic feeders shall be cleaned and sanitized regularly to prevent the growth of mold and deterioration or caking of feed. Automatic watering devices shall be kept clean, be properly and regularly sanitized, and be tested daily to ensure they are functioning correctly. Records of food purchased for the facility shall be kept on file for a period of two years.

r. Owners of commercial and noncommercial kennels are required to comply with the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act which includes, but is not limited to, prohibiting puppy mills and the breeding of female dogs during the first estrus cycle and the breeding of female dogs each estrus cycle without sufficient rest between litters. In some cases, the standards set in this law for the Town of Gardiner may differ from those of the FPPA in which case the higher standard will prevail.

s. In order to ensure the long-term healthy of breeding females, they shall not be used for breeding until their third menstrual cycle. Litters to the same female should be spaced at least 6 months apart. Breeding females shall have no more than 4 litters in their lifetime.

t. Each dog shall receive adequate veterinary care, including:

1. prompt treatment of any disease, illness or injury by a licensed veterinarian

2. a thorough, hand-on examination by a licensed veterinarian at least once per year which shall include a dental exam

3. core vaccinations recommended by the latest version of the American Animal Hospital Association of Canine Vaccination Guidelines

4. medications to prevent intestinal parasites, heartworm disease, fleas, and ticks that are approved by a licensed veterinarian for canine use

u. All kennels must be licensed by the Town of Gardiner. A license for one year for a commercial kennel operation must be obtained from the Town Clerk after the Dog Control Officer has inspected the premises and found that it meets the conditions of this article and after the owner has secured a special use permit from the Planning Board. The Town Board shall set the annual fee yearly for commercial kennels. Each license is renewable on its anniversary date.

Renewal will occur as long as there are no unresolved violations during the previous year. Fees will remain the same until said fees are changed by resolution of the Town Board. In the event there is some dispute over whether a license should be renewed, a veterinarian will be retained to advise the Town Board. The kennel owner shall pay the veterinarian's charge for inspection, and said payment shall be made to the Town of Gardiner prior to the inspection. Failure to pay the veterinarian charges shall bar renewal of the license.

v. Noncommercial and mixed kennels are required to apply for and secure a kennel license. There will be no charge for same.

w. Non-commercial kennels housing between five and ten dogs will not be required to meet all the above requirements for commercial kennels. They will be required to demonstrate that they are providing adequate care in terms of feeding, water, sanitation, exercise and other aspects of best practice of animal care without having to provide housing as cited for commercial kennels. If upon inspection by the dog control officer, it is determined that the standard of care is not adequate, they will not be issued a license and will have to make other arrangements for the animals at their address

x. Non-commercial kennels as described in section W above will be inspected yearly to insure that the health and safety of the animals in their care is being maintained. The Dog Control Officer can inspect the premises of any kennel whether commercial, non-commercial or mixed at any time when they deem that adequate health and safety conditions are not being met.

y. Foster homes may only foster one adult dog at a time. Previously bonded pairs of dogs are allowed to be fostered simultaneously. A mother and pups or a group of pups may be fostered together. If the foster home already has an animal, they must consult with the fostering organization to determine the compatibility of the animals.

Any disturbance i.e.: noise, odors, dogs running at large, aggressive dogs, or other disturbances not listed herein these general requirements that disturb the comfort or repose of any person in the town or interferes with the peaceful enjoyment of their property or any town property could be petitioned to the town board and ordered to be remedied by the town board. The town board reserves the right to suspend or cancel any kennel permit should the operation be deemed harmful to the community.

2. LICENSE REGULATIONS

Kennels must prominently display their license on the premises.

1. No person who has been convicted of cruelty to animals or otherwise deemed to have mistreated or harmed animals shall be issued a license to operate any kennel.
2. No person who has been convicted of cruelty to animals or otherwise deemed to have mistreated or harmed animals shall be employed by any kennel.
3. A license issued on the basis of false information supplied by the applicant shall be revoked and the operation of the subject kennel shall be terminated.

3. INSPECTION REQUIREMENT

- a. As heretofore provided; a person may operate a kennel in the Town of Gardiner only with a special use permit issued by the Planning Board.
 - b. If there is a transfer of ownership on an existing facility, the premises must be inspected by the Code Enforcement Officer, together with the local Dog Control Officer and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for a commercial dog breeding facility and/or dealers and in compliance with the Gardiner Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and the Uniform Fire Prevention and Building Code.
 - c. The code enforcement officers shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of inspection.
 - d. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit representatives of the Town Code Enforcement Officer, the Town Dog Control Officer, the Ulster County Health Department, the Ulster County Sheriff's Department, the New York State Police, and the State Health Department, the authority regarding the use of the premises, to inspect the premises of the kennel for the purpose of ensuring compliance with this article at any time it is occupied or open for business.
5. If, upon inspection as described above, it shall be found that the operator has violated any provisions of this chapter, the Dog Control Officer and/or the Code Enforcement Officer shall have the power to revoke or suspend the permit and order the animals removed after notice and an opportunity for the owner/operator to be heard.
6. In addition to the other provisions of the Town Code, it shall be deemed a violation of Town Zoning Code if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator:

- a. Has violated or is not in compliance with any section of the Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and/or any section of the New York Penal Law relating to mistreatment of animals; or
- b. Has refused to allow any inspection of the Kennel as authorized by this article; or
- c. Operates with an expired special use permit.

E. SUBSTANTIVE REQUIREMENTS: PRE-EXISTING KENNELS

1. Pre-existing facilities shall be considered non-conforming structures or uses pursuant to Article VI of the Zoning Law.

F. AUTHORITY:

1. The Code Enforcement Officer has the authority to examine the premises and locations of any buildings or structures in the Town of Gardiner, shall determine whether or not they comply with the existing laws, and shall have the authority to issue appearance tickets for violations of this Chapter. The Dog Control Officer has authority to inspect the premises and buildings and assess the conditions of the dogs within the buildings and structures in the Town of Gardiner. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency; officer or employee of the Town and such record shall show the disposition of all such violations.

G. COMPLAINTS

Complaints made to the Town regarding any violations of the law must be made by a person with firsthand knowledge of the alleged violation or deficiency. Complainants must provide their name, address and how the information regarding the complaint was legally obtained. The Animal Control Officer and other town officials shall, as needed, review any complaints or reports of code violations. Upon review, they shall use their prosecutorial discretion in enforcing the Town Code. Reports made on the basis of hearsay or concerns without an observed violation by the complainant shall not be reviewed.

H. PENALTIES

1. A violation shall be an offense, punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both for a conviction for a first offense; a fine not to be less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a second offense within a period of five years from the date of the commission of the first offense; a fine not to be less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a third or subsequent offense within a period of five years from the date of the

commission of the first offense. Each day's continued violation shall constitute a separate additional violation.

2. In addition, any person who violates any provision of this code or who shall omit, neglect or refuse to do any act required thereby shall be subject to a civil penalty of not less than \$500.00 nor than \$3,000.00 recoverable by the Town of Gardiner in an action in the small claims court, part of the Town of Gardiner Justice Court.

3. Whenever a suspected violation of the code occurs, any person may file a signed written complaint reporting such violation to the Code Enforcement Officer. The Code Enforcement Officer may also investigate any oral complaint made to his/her office. He/She may direct the Dog Control Officer to accompany or investigate alone in his/her place. All complaints, written or oral, shall be properly recorded, filed and immediately investigated by the Code Enforcement Officer and a local Dog Control Officer.

Section 2 – Town Code, Chapter 220, Section 220-10 shall be amended to make Kennel's prohibited in the CLI and HC Zoning Districts.

Section 3--SEVERABILITY

Each separate provision of this article shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions shall remain valid and enforceable.

The provisions of this article shall take effect upon the filing of this law with the Secretary of State.