

Adopted by the Select Board on May 20, 2013

Town of Bennington, Vermont

Article 9.1. Private Kennel Licensing Ordinance

Article 9.1-1 PURPOSE

The purpose of this ordinance is to protect the health, safety and welfare of the public and domestic dogs.

Article 9.1-2 DEFINITIONS

Animal Control Officer: A person designated by the Town Manager or Chief of Police to enforce this ordinance or any Town of Bennington Police Officer.

Commercial Kennel: Any place with a valid Zoning Permit from the Town of Bennington for a kennel as such term is defined in the *Town of Bennington Land Use & Development Regulations (LUDR)*. The LUDR defines a kennel as: "the boarding, breeding, raising, grooming, or training of four or more dogs, cats, or other household pets of any age for a commercial use and/or which are not owned by the owner or occupant of the premises."

Dog: Any animal of the canine species.

Excessive Barking: Any noise by a dog or dogs audible at the property line of a property on which a Private Kennel is located which noise occurs repeatedly for at least a seven minute period of time with one minute or less lapse of time between each noise during the seven minute period.

Intact: A dog that has not been spayed or neutered.

Private Kennel: Any place, other than a Commercial Kennel, where at any time five or more dogs over six months of age are kept and where any two or more of such dogs kept are intact. This definition shall not include Veterinary Clinics.

Article 9.1-3 PRIVATE KENNEL REGULATIONS

A. Licensing

No person or persons shall conduct, operate or keep a Private Kennel within the Town of Bennington without first obtaining a Private Kennel License from the Town of Bennington Town Manager or his/her designee in accordance with this Ordinance. Licenses are effective for one year from the date of issuance and must be renewed annually.

1. Applications Anyone required to be licensed by the provisions of this Ordinance shall make written application to the Town Manager's Office on forms provided by the Town. Application forms shall be completed in full prior to issuance of a license.
2. Fees Each application shall include the payment of a fee of \$50.00.
3. Insurance It shall be a condition of the license that the licensee shall be liable to any person who shall receive actionable injury through the exercise of the licensed activity. Prior to the issuance of a license, the submission to the Town Manager of the following is required: a certificate of insurance which shows liability insurance for bodily injury and property damage in the amount of at least five hundred thousand dollars (\$500,000.00) for personal injury to or death of any one or more person in any one incident.
4. Landowner Permission The written permission of the landowner of the property on which a Private Kennel will be operated shall be required.
5. Issuance of License A license shall be issued only if the Private Kennel complies in all respects with this Ordinance as determined by the Town Manager or his/her designee.

B. Denial or Revocation of License

1. A license may be denied or revoked if, at any time, the Private Kennel does not comply in all respects with this Ordinance as determined by the Town Manager or his/her designee or an Animal Control Officer. Written notice of denial or revocation shall be mailed to the licensee at the address indicated on the application for the license.
2. If a license is revoked, no new license application shall be accepted from the same person or persons or location for one year after the revocation.
3. Within 10 days of the denial or revocation of a license, or if such denial or revocation is appealed in accordance with this Ordinance, within 10 days of notice of the decision on appeal, the applicant or licensee shall take all necessary actions to comply with this Ordinance, as determined by an Animal Control Officer, including the removal from the Town of Bennington of dogs from the property. If the applicant or licensee fails to comply with the Ordinance in the time period specified herein, an Animal Control Officer may seize the minimum number of dogs necessary to comply with this Ordinance. Such animals seized shall be impounded in accordance with the impoundment procedures set forth in Bennington's Animal Control Ordinance.

C. Appeals

1. A person may appeal the denial or revocation of a license by delivering a written request for an appeal to the Town Manager's office not more than 10 days after the denial or revocation is mailed to the licensee or applicant.
2. Any such appeal shall be decided by the Select Board after a hearing held within 30 days after a request for an appeal is received by the Town Manager.
3. Written notice of the time and place of the hearing shall be mailed to the applicant or licensee at least ten days prior to the date of the hearing. Notice shall contain a brief statement of the grounds being cited for revocation or denial of the license.
4. At such hearing, the Select Board shall inquire into the reasons for the denial or revocation, shall hear all persons interested in the matter, and, after due deliberation, may uphold the denial or revocation or issue/re-issue the license with or without conditions.

D. Requirements and Standards

All Private Kennels shall meet all of the following requirements and standards at all times:

1. No excessive barking shall emanate from the Private Kennel at any time.
2. Training dogs for fighting is expressly prohibited.
3. Dog kennels, shelters or runs shall not be located within 1000 ft. or closer of a residence other than the residence of the Private Kennel owner.
4. For all dogs not housed indoors, all-weather kennels or shelters and dog runs or enclosed exercise areas shall be provided and shall be adequately sized for the particular breed. All kennels, shelters, runs and exercise areas shall be maintained in good repair at all times.
5. Adequate sanitation of all areas where dogs are kept shall be maintained at all times. All feces shall be stored in sealed containers indoors and disposed of promptly.
6. All dogs shall be afforded proper veterinarian care.
7. All dogs shall be provided with an adequate supply of fresh, clean, potable water and food suitable for the breed and age of each dog.
8. All dogs shall be treated in a humane manner.

Article 9.1-4 ENFORCEMENT

A. Inspections

An Animal Control Officer may inspect any Private Kennel for compliance with this Ordinance upon 24 hours verbal or written notice or at any time after receipt of any complaint.

B. Violations and Penalties

A violation of this Ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. Sections 1974a and 1977 as amended, et seq. and 20 V.S.A Section 3550 as described below.

A penalty of \$100 shall be imposed for the initial violation of any provision of this Ordinance. The penalty for the second offense within a one year period shall be \$250, and the penalty for each subsequent violation within a one year period shall be \$500. In cases where a violation is not contested, a "waiver fee" shall be paid in the amounts of: \$50 for the first offense, \$125 for the second offense within a one year period, and \$300 for each subsequent offense within a one year period. Each day that a violation continues shall constitute a separate violation of this Ordinance.

In addition to the enforcement procedures set forth above, the Town may commence a civil action to obtain injunctive or other appropriate relief, or to pursue any other remedy authorized by law.

Article 9.1-5 Validity

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision of this Ordinance.

THIS ORDINANCE IS HEREBY ADOPTED by the Select Board of the Town of Bennington on this 20th Day of May, 2013. Said adoption shall be documented in the minutes of the Select Board, posted in five (5) conspicuous places within the Town of Bennington and a summary of this adopted Ordinance shall be published in the Bennington Banner within fourteen (14) days of its adoption and shall, unless a petition is filed as provided by law, become effective upon the expiration of sixty (60) days after the date of adoption.

Joseph Krawczyk, Jr, Chair

Sharyn Brush, Vice Chair

Jim Carroll

Justin Corcoran

Thomas Jacobs

John McFadden

Greg Van Houten

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