

ORDINANCE NO. 07-2023 AN ORDINANCE REPEALING AND REPLACING CHAPTER 110 OF THE BOROUGH OF KINNELON CODE TITLED “DOGS AND OTHER ANIMALS”

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon (“Borough”) desires to repeal and replace Chapter 110 titled “Dogs and Other Animals” to preserve the public health, safety, and welfare by setting forth regulations on the maintenance and care of animals.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey, as follows:

SECTION 1. The Code of the Borough of Kinnelon, Part II General Legislation therein, is hereby amended by repealing and replacing Chapter 110, titled “Dogs and Other Animals”, which shall read as follows:

Chapter 110
Dogs and Other Animals

Article I
Licensing, Registration; Control

§110-1 Definitions.

For the purposes of this article, the terms used herein are defined as follows:

ANIMAL CONTROL OFFICER

A certified municipal animal control officer or, in the absence of such an officer, the chief law enforcement officer of the municipality or their designee.

ANIMAL RESCUE ORGANIZATION

An individual or group of individuals who, with or without salary or compensation, house and care for homeless animals in the home of an individual or in other facilities, with the intent of placing the animals in responsible, more permanent homes as soon as possible.

ANIMAL RESCUE ORGANIZATION FACILITY

The home or other facility in which an animal rescue organization houses and cares for an animal.

AT LARGE

Off the property of the owner and not on a leash. This does not apply when a dog is confined within a vehicle.

DOG

Any canine or a canine hybrid.

DOG OF LICENSING AGE

Any dog which has attained the age of seven months. (N.J 4:19-15.1)

DOMESTIC ANIMAL

Any cat, dog, or livestock.

FEED

To give, place, expose, deposit, distribute, or scatter any edible material with the intention of feeding, attracting, or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

IMMEDIATELY

At once, without delay.

KENNEL

Any establishment wherein or whereupon the business of boarding or selling dogs or breeding dogs for sale is carried on, except for a pet shop (N.J 4:19-15.1)

NJ LICENSED ANIMAL FACILITY

An establishment for the confinement of dogs or other animals seized under the provisions of this article, state statutes or otherwise.

OWNER

When applied to proprietorship of a dog, every person having a right of propriety of such dog, and every person who has such dog or other animal in his keeping or under his control, whether or not the owner of such pet

PERSON

Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PET

Any dog (other than a trained service animal), cat, rodent, turtle, bird, fish or other animal kept for pleasure rather than for commercial purposes on the property of the owner.

PET WASTE MATERIAL

Waste material expelled from the bowels of the pet; excrement

POTENTIALLY DANGEROUS OR VICIOUS DOG

"Potentially dangerous dog" means any dog or dog hybrid declared potentially dangerous by a municipal court pursuant to section 7 of P.L.1989, c.307 (C.4:19-23).

"Vicious dog" means any dog or dog hybrid declared vicious by a municipal court pursuant to section 6 of P.L.1989, c.307 (C.4:19-22).

PROPERLY DISPOSE

Pet waste should be bagged and placed in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector.

TRAINED SERVICE ANIMAL

An animal required because of a disability which has been trained to perform a specific task or work, as defined by the Americans With Disabilities Act. The task must be directly related to the disability.

WILDLIFE

All animals that are neither human nor domesticated.

§110-2 License and registration required.

Any person who shall own, keep or harbor a dog of licensing age shall, within 10 days after the acquisition thereof, and annually thereafter in the month of January, apply for and procure from the Borough Clerk a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto. Such license shall state the breed, sex, age, name, color and markings of the dog for which the license and registration are sought, whether it is of a long- or short-haired variety, and the name, street and post office address of the owner and the person who shall keep or harbor such dog.

§110-3 License and registration fees.

- A. Persons applying for a license shall pay a fee of \$20 for each license (if the dog is spayed or neutered) or a fee of \$23 for each license (if the dog is not spayed or neutered). All such licenses, registration tags and renewals shall expire on the last day of December in each year. Dogs used as guides for blind persons and commonly known as "Seeing Eye" dogs shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefore.
- B. The owner of a potentially dangerous/vicious dog shall pay a special annual fee of \$700 for a potentially dangerous/vicious dog license, in addition to, and on the same schedule as the fees indicated in Section A above..
- C. Any person who shall own, keep or harbor a dog of licensing age which is found to be licensed after March 1 shall be required to pay a late charge of \$10 in addition to the required license fee.
- D. Newly acquired dogs must be licensed no later than ten (10) days after acquisition or of attaining licensing age.

§110-4 Disposition of fees collected.

The disposition of license fees and registration fees collected hereunder shall be in accordance with N.J.S.A.

4:19-15.11.

§110-5 Canvass of dogs in the Borough.

The Animal Control Officer of the Borough may cause a canvass to be made of all dogs owned, kept or harbored within the Borough for the purpose of licensing enforcement.

§110-6 Restrictions on Public and Private Property.

A. No person owning, harboring, keeping or in charge of any dog shall permit or take such animal upon the lawn, yard, entranceway or driveway of any private property whatsoever without the consent of the property owner.

B. Dogs (except service animals) are prohibited from or in any municipal parks, playfields, playgrounds, play areas, school property or other municipal property, except public roads, unless authorized by the Borough.

C. Dogs (except service animals) are prohibited from any public eating place, and may only be permitted in non-eating establishments with the expressed permission of the store owner.

§110-6.1 Dogs to be leashed.

No person owning, harboring, keeping or in charge of any dog shall allow or permit such dog to go upon any public streets, or in any of the public places or semipublic areas of multi-dwelling complexes within the Borough unless such is accompanied by a person and is securely confined and controlled by an adequate physical leash which may not exceed six (6) feet in length.

§110-6.2 Dogs at large.

It shall be unlawful for any person owning, keeping, harboring or having the custody and possession of any dog, whether registered or not, to permit such dog to be at large within the Borough.

Dogs on their owner's property must be leashed or otherwise prohibited from leaving the property unattended.

§110-7 Appointment of Animal Control Officer;

The Borough Council is hereby authorized and empowered to appoint an Animal Control Officer in accordance with N.J.S.A. 4:19-15.16a et seq. and the rules promulgated thereunder. The Animal Control Officer shall have the full power and authority to carry out the provisions of this chapter. The Borough Council shall fix the compensation to be paid to such person or persons so appointed and shall pay the same out of the monies of the Borough.

§110-8 Impoundment of dogs at large; notice to owner; disposition of unclaimed dogs or other animals

A. The animal control officer or Chief Law Enforcement Officer, or his or her designee, shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or offered for adoption as provided in this section:

- (1) Any dog off the premises of the owner or of the person keeping or harboring said dog which said official or their agent or agents have reason to believe is a stray dog;
- (2) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on its collar;
- (3) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog;
- (4) Any dog or other animal which is suspected to be rabid;

(5) Any dog or other animal off the premises of the owner reported to, or observed by, a certified animal control officer to be ill, injured or creating a threat to public health, safety or welfare, or otherwise interfering with the enjoyment of property.

B. If any animal so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring said animal is known, any person authorized by the governing body shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said animal, if known, a notice in writing stating that the animal has been seized and will be liable to be offered for adoption or destroyed if not claimed within seven days after the service of the notice. A notice under this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of abode, or at the address given on the collar, or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or to the address given on the collar.

C. Any person authorized by the governing body may cause an animal to be destroyed in a manner causing as little pain as possible and consistent with the provisions of R.S.4:22-19 or to be offered for adoption seven days after seizure; provided that:

- (1) Notice is given as set forth above and the animal remains unclaimed; or
- (2) The owner or person keeping or harboring the animal has not claimed the animal and paid all expenses incurred by reason of its detention, including maintenance costs not exceeding \$4.00 per day; or
- (3) The owner or person keeping or harboring a dog which was unlicensed at the time of seizure does not produce a license and registration tag for the dog.

D. At the time of adoption, the right of ownership in the animal shall transfer to the new owner. No dog or other animal so caught and detained or procured, obtained, sent or brought to a pound or shelter shall be sold or otherwise made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a crime of the fourth degree.

After observation, any animal seized under this section suspected of being rabid shall be immediately reported to the executive officer of the local board of health and to the Department of Health and Senior Services.

§110-9 Administration and enforcement.

A. The Animal Control Officer of the Borough shall be responsible for all dogs impounded or taken into custody under the provisions of this article or state statutes and shall designate the place where such dogs are to be impounded or held in custody.

B. Except for the issuance of dog licenses, which shall be done by the office of the Borough Clerk, this article shall be enforced by the Animal Control Officer of the Borough. However, nothing herein shall be deemed to prohibit any police officer of the Borough from enforcing any provisions hereof.

§110-10 NJ Licensed Animal Facility Open for inspection and examination.

All NJ Licensed Animal Facilities for dogs or other animals shall be open at all times for inspection and examination by the Borough Health Department.

§110-11 Dogs which habitually bark or cry.

It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a

Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

- (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
- (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

§110-12 Injury to persons or damage to property.

No person owning, harboring, keeping or in charge of any dog shall allow or permit it to do any injury to any person or to do any damage to any lawn, shrubbery, flowers, garden, grounds or property of another person or to any public property.

§110-13 Injuring domestic animals.

No person owning, keeping or harboring a dog shall allow or permit it to do any injury or damage to any domestic animals.

§110-14 Commercial Establishments, Sale of dogs or cats.

- (1) Operating a commercial dog breeding, boarding or kennel or daycare type service is prohibited on any residential property.
- (2) (a) The sale, or offer for sale, of dogs or cats in any commercial establishment in the Borough is prohibited.
 - (b) Nothing in this section shall be construed to prohibit a retail pet store or other commercial establishment from providing space to an animal rescue organization or an animal shelter to publicly showcase dogs or cats available for adoption.
 - (c) An animal rescue organization or animal shelter may offer dogs or cats for adoption at their facility.
 - (d) Animal rescue organization does not include any entity that breeds animals or that (1) is located on the same premises as; (2) has any personnel in common with; (3) obtains, in exchange for payment or any other form of compensation, dogs or cats from; or (4) facilitates the sale of dogs or cats obtained from a person or establishment that breeds animals.

§110- 14A Violations and penalties.

Unless another penalty is expressly provided herein, any person, firm or corporation violating this article shall be subject, upon conviction, to one or more of the following at the discretion of the court: a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 90 days or community service not to exceed 90 days. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**Article II
Rabies**

§110-15 Vaccination required; procedure; certificate of compliance.

- A. Any person who shall own, keep or harbor a dog of licensing age in the Borough of Kinnelon shall annually apply for and procure from the Borough Clerk or other official designated by the governing

body thereof to license dogs, a license and official registration tag for each such dog so owned, kept or harbored, and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto.

- B. The Borough Clerk or other official designated by the governing body to license dogs therein shall not grant any such license and official registration tag for any dog unless the owner thereof provides evidence that the dog to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Health, Education, and Welfare, or has been certified exempt as provided by regulations of the NJ State Department of Health. Such vaccination shall be repeated at intervals as provided by regulations of the NJ State Department of Health, and shall be administered by a duly licensed veterinarian or by such other veterinarian permitted by law to do the same. The NJ State Department of Health shall promulgate regulations providing for the recognized duration of immunity, interval of inoculation, certificate of vaccination, certificate of exemption, and such other matters related to this article.
- C. The owner of any newly-acquired dog of licensing age or of any dog which attains licensing age, shall make application for license and registration tag for such dog within ten days after such acquisition or age attainment.
- D. The Board of Health is hereby authorized and empowered to provide free vaccination for such dog or other such warm-blooded animal at a suitable clinic and place designated by it, to be conducted by a duly licensed veterinarian and Certified Animal Control Officer or licensed Registered Environmental Health Specialist of the State of New Jersey. Said Board of Health is hereby further authorized and empowered to make and adopt such rules and regulations, not inconsistent or in conflict with the terms and provisions of this article, as it may deem proper and necessary for the carrying out of the purposes of this article.

§110-16 Persons attacked or bitten by animals; confinement of animals for rabies tests.

- A. The Board of Health, within its jurisdiction, may serve notice upon the owner or person in charge of a dog, cat or other animal which has attacked or bitten a person, to confine the animal at the expense of the owner or person in charge of it upon the premises of the owner or person in charge or at some other place designated in the notice, for at least ten days after the animal has attacked or bitten a person.
- B. Prior to releasing any dog or other such warm-blooded animal confined under the provisions of this article, a duly licensed veterinarian, a Certified Animal Control Officer or, in their absence, a licensed Registered Environmental Health Specialist of the State of New Jersey shall issue a certificate to the Board of Health, stating the physical condition of such animal at the end of the ten-day period of confinement. If the certificate indicates the release of the said animal is not warranted by reason of its physical condition at the end of the ten-day period of confinement, the animal shall be confined at the expense of the person, firm or corporation owning, possessing, harboring or having custody of such animal until such time as the veterinarian, a Certified Animal Control Officer or, in their absence, a licensed Registered Environmental Health Specialist of the State of New Jersey certifies that its physical condition warrants its release.

§110-17 Attacks or bites by rabid animals: reports to Board of Health.

- A. Whenever a dog, cat or other such warm-blooded animal is infected with rabies or suspected of being infected with rabies or has been bitten by an animal known to be infected with rabies, the person, firm or corporation owning, possessing, harboring or having custody of such animal shall forthwith notify the Board of Health.
- B. Every physician, within 12 hours after his first professional attendance upon any person bitten by a warm-blooded animal, shall report the same to the Board of Health.
- C. The parent, guardian or other custodian of a child or an adult, or, if he is incapacitated, the person caring for such adult, bitten by a dog, cat or other such warm-blooded animal, shall, within 12 hours after the biting, report the same to the Board of Health.

§110-18 Violations and penalties.

Any person, firm or corporation violating this article shall be subject, upon conviction, to one or more of the following at the discretion of the court:

- A. A fine not to exceed \$1,000;
- B. Imprisonment in the county jail for a term not to exceed 90 days; or
- C. Community service not to exceed 90 days.

Article III

Vicious and Potentially Dangerous Dogs

§110-19 Proceedings; statutory authority.

The Board of Health, its Animal Control Officer and other designated municipal officials shall proceed in accordance with N.J.S.A. 4:19-17 et seq. and the regulations promulgated thereunder with respect to vicious and potentially dangerous dogs.

§110-20 Special license fee.

In addition to license and registration fees set forth in Article I of this chapter, the owner of a potentially dangerous dog shall pay a special annual fee of \$700 for a potentially dangerous or vicious dog license.

§110-21 Violations and penalties.

Any person found by a preponderance of the evidence to have violated any of the provisions of this article shall be subject to a fine of a minimum of \$100 and not more than \$1,000 per day of the violation and each day's continuance of the violation shall constitute a separate and distinct violation. When its owner violates the provisions of this article, a potentially dangerous dog may be seized and impounded and the Municipal Court may order its humane destruction 10 days or longer after the conviction.

Article IV

Defiling on Public Property and Certain Private Property

§110-22 Defiling on public property and certain private property prohibited.

A. No person owning, keeping, or harboring any dog shall cause, permit or allow the dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of the property. The restriction in this subsection shall not apply to that portion of the street lying between the curb lines or the paved or other otherwise improved portion of the right-of-way, which shall be used to curb the dog under the following conditions:

- (1) The person who curbs the dog shall immediately remove all feces deposited by the dog and properly dispose of same.

Proper disposal shall consist of placing the waste in a suitable container, which is then discarded in a public refuse container which is regularly emptied by the municipality or some other refuse collector. Animal waste shall not be placed in any residential waste container without the expressed permission of the receptacle owner. Animal waste shall not be placed in any storm sewer.

Owners of pets who permit their pets to defecate on their own property shall likewise promptly and properly dispose of said waste so as to prevent obnoxious odors or unsanitary conditions which would affect other property owners.

B. The provisions of this article shall not apply to blind persons who may use trained dogs as guides.

§110-23 Violations and penalties.

Any person owning, keeping, or harboring any dog who shall be found guilty of violating any provision of this article shall, for each offense, upon conviction thereof by the Municipal Judge, be subject to the general penalty provisions set forth in §110-14A.

§110-24 Enforcement.

All police officers of the Borough and the Borough Animal Control Officer shall have full power and authority to enforce the provisions of this article.

Article V Wildlife Feeding

§110-25 Purpose.

An ordinance to prohibit the feeding of unconfined wildlife in any public park or on any other property owned or operated by the Borough of Kinnelon, so as to protect public health, safety and welfare and to prescribe penalties for failure to comply.

§110-26 Prohibited conduct.

No person shall feed, in any public park or on any other property owned or operated by the Borough of Kinnelon, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks, or rehabilitation centers, or unconfined wildlife at environmental education centers.)

§110-27 Enforcement.

This article shall be enforced by Police Department and the Animal Control Officer of the Borough of

Kinnelon.

§110-28 Violations and penalties.

Any person who shall violate any provision of this article shall, upon conviction thereof, be punished in accordance with §110-14A. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 2. All ordinances, resolutions and regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistency.

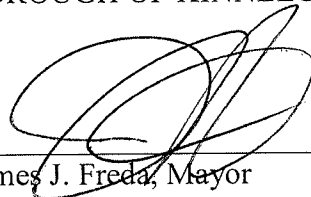
SECTION 3. This Ordinance shall take effect after approval and publication as required by law.

ATTEST:

BOROUGH OF KINNELON



Karen M. Iuele, RMC, Borough Clerk



James J. Freda, Mayor

CERTIFICATION

I, Karen M. Iuele, Borough Clerk of the Borough of Kinnelon, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Borough held on _____ and adopted by the Governing Body at a regular meeting of the Borough held on _____.

Karen M. Iuele, RMC, Borough Clerk

LEGAL NOTICE**BOROUGH OF KINNELON, MORRIS COUNTY****ORDINANCE NO. _____**

Notice is hereby given that an Ordinance entitled **AN ORDINANCE REPEALING AND REPLACING CHAPTER 110 OF THE BOROUGH OF KINNELON CODE TITLED “DOGS AND OTHER ANIMALS”** was submitted in writing at a regular meeting of the Mayor and Council of the Borough of Kinnelon, County of Morris, State of New Jersey, held on _____, 2023 and was introduced, read by title and passed on first reading. A Statement of Purpose of the Ordinance is contained below. The governing body of the Borough of Kinnelon will further consider the ordinance for second reading and final passage thereof at their regular meeting to be held on _____, 2023 at 7:00 p.m. prevailing time, at the Municipal Building in said Borough, at which time and place a public hearing will be held thereon by the governing body and all parties in interest and citizens shall have an opportunity to be heard concerning said ordinance.