

## Article 215-7.1 Dog Parks / Yard

[Adopted August 12, 2019 by L.L. No. 7 of 2019]

### §215-7.1–1 **Purpose.**

The purpose of this article is to establish and implement policies and regulations for municipal dog parks approved by the City of Port Jervis ("City"). This article applies to any City-owned and -operated dog park/yard, or any portion of a multi-use park or area of the City where an area is designated by the City as a dog park/yard by fencing and signage.

### § 215-7.1–2 **Authority.**

This article is enacted pursuant to the provisions of § 122 of Article 7 of the Agriculture and Markets Law of the State of New York.

### § 215-7.1–3 **Title.**

The title of this article shall be "Dog Parks / Yard."

### § 215-7.1–4 **Applicability.**

This article applies to municipal dog parks/yard, and it does not supersede the obligations of dog owners or handlers under either Chapter \_\_, Article \_\_, \_\_ of the City Code or under Article 7 of this state's Agriculture and Markets Law. With the exception of the fact that dogs are allowed to be off leash within the fenced area of a dog park/yard, these other provisions of state statute and City code, regarding animal behavior and dog owner responsibility, are applicable to all users of dog parks/yard. The behavior of a dog as a dangerous dog within the meaning of Article 7 of the Agriculture and Markets Law, and the enforcement and remedies pertaining thereto, shall be equally applicable to behavior of unleashed or leashed dogs within a dog park.

### § 215-7.1–5 **Definitions.**

#### **A.**

As used in this article, the following terms shall have the meanings indicated:

#### **ADULT DOG**

A dog over 12 months of age.

#### **DANGEROUS DOG**

A dog that has been designated as a "dangerous dog" by a court of competent jurisdiction pursuant to the provisions of Article 7 of the New York Agriculture and Markets Law.

#### **DOG**

Any member of the species canis familiaris.

## **DOG PARK**

A fenced and enclosed area, either existing independently or forming a part of the City of Port Jervis property, that has been designated by the City of Port Jervis for use as an off-leash dog area for the exclusive use of dogs and their handlers.

## **ENFORCEMENT OFFICER**

A police officer or animal control officer authorized to administer the laws of the City of Port Jervis

## **HANDLER**

The person who accompanies a dog for the purpose of its supervision. This may, but does not have to be, the owner of said dog. Any liability of the handler under this article shall not be forgiven or excused because the handler did not, in reality, possess the consent of the dog's owner.

## **OFF-LEASH AREA**

The fenced, secured section of a dog park where the dog is allowed to exercise without a leash and under supervision of a handler.

## **ON-LEASH AREA**

Any portion of the dog park/yard not included within the fenced and secured off-leash area.

## **OWNER**

The person in whose name any dog was last licensed as required by any local law or the New York State Agriculture and Markets Law, except that if any license is issued upon application of a minor, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed, the owner of record shall be deemed to be the owner, provided that if the owner is also a minor, the owner of record shall be deemed to be the parent or guardian of such person.

## **PUPPY**

A dog between birth and 12 months of age.

## **SHARED-USE OR MULTI-USE PARK**

A park/yard that has an area that can include playground equipment, an athletic playing field(s), or any other use that attracts children, and which facility includes a designated dog park/yard.

## **CITY CLERK**

The City Clerk Treasurer of the City of Port Jervis

## **CODE COMMITTEE**

The Code Committee of the City of Port Jervis

## **STEWARD**

Recreation Department assists in the development and maintenance of the dog park as well as to assist in keeping the dog park clean and safe.

## **§ 215-7.1–6 Designation and regulation of dog parks.**

### **A.**

The City Council may designate, establish and improve dog parks/yards as recreational amenities. In so doing, the City Council shall segregate and secure a separate area as an off-leash area for dogs and their handlers, and the City Council may exercise that function either through the establishment of property for exclusive use as a dog park/yard, or by the segregation and setting aside of area for a dog park/yard within lands devoted to other municipal uses, recreational or otherwise.

### **B.**

In establishing dog parks/yard for the exclusive use of dogs and their handlers, the City shall consider the property's size, location and frequency of use by members of the public; the primary, actual or designed use of each parcel of land prior to the establishment of a dog park/yard; and the character and proximity of neighboring uses of land.

### **C.**

The Code Committee of the City Council shall order signs posted that notify the public of the separation between off-leash or on-leash areas for dogs.

### **D.**

Off-leash areas shall be securely and appropriately fenced to avoid an unleashed dog's escaping the control of its handler and exiting of the off-leash area.

**E.**

The Code Committee of the Common Council may identify an appropriate location for, and designate the same, as a separate, fenced and secured section within a dog park/yard to accompany dogs that weigh 20 pounds or less, but this is not an essential standard or goal.

**F.**

The Code Committee of the Common Council may designate, if feasible and if funds are available, a play and training section for the protection of puppies that shall be segregated and secured from other areas of a dog park, although this is not an essential standard or goal.

**G.**

The City Council may adopt by resolution more specific rules and regulations pertaining to the use of dog parks/yard. The failure of the City Council to adopt regulations shall not render ineffective the provisions of this article.

**H.**

Activities within dog parks/yards shall be limited to exercise of dogs accompanied by handlers and others, and there shall be no other allowable recreational activities, such as ball playing or other recreational activities.

**I.**

The maximum hours of usage of a dog park shall be dawn to dusk, unless otherwise fixed by regulations adopted by City Council resolution.

**§ 215-7.1–7 Code Committee of the City Council.**

**A.**

The Code Committee of the City Council is authorized and directed to:

**(1)**

Recommend the configuration(s) and rules of the dog park;

**(2)**

Define and communicate the responsibilities and schedules of Recreation Department;

**(3)**

Plan and coordinate projects for the development and maintenance of the dog park;

**(4)**

Plan and coordinate with the Recreation Department publicity for the dog park;

**(5)**

Obtain the guidance of experts, including, among others, veterinarians, dog trainers or behaviorists, to assist it in performance of its duties; provided, however, that the Code Committee of the City Council shall not be authorized to expend any funds without prior approval by the City Council; and

**(6)**

Such other tasks and responsibilities as the City Council may deem appropriate from time to time.

**B.**

Approval of a majority of the fully Code Committee of the City Council shall be required for said Committee to take any action.

**§ 215-7.1–8 Obligations of handler.**

**A.**

Handlers shall be responsible for all actions and behavior of their dogs and shall be responsible and liable for all injuries or damage caused by their dogs while on City property.

**B.**

Handlers shall be responsible for removing any feces, vomit or other waste material produced by their dogs and for depositing such materials in an appropriate container.

**C.**

Handlers shall keep their dogs on a leash no longer than six feet in length when entering the dog park facility and before moving the dogs into the off-leash area.

**D.**

While dogs are in the off-leash area, handlers shall control their dogs by sound or voice command.

**E.**

Handlers shall closely supervise minor children who accompany them to the dog park.

**F.**

The City of Port Jervis, and its officers and employees and recognized volunteers, shall not be liable for any injury or harm to any person or dog incurred or caused by any person or dog in connection with use of any dog park/yard. At the time of obtaining a dog park/yard entry tag, persons who make use of, or register to use, dog park/yard facilities of the City shall be required to sign a hold-harmless agreement, waiver and release of liability in favor of the City for any injury or harm. Failure to be presented, or to sign, a waiver and release shall not in any way limit the City's, and its officers' and employees' and recognized volunteers', exemption from liability under this subsection.

**G.**

The City Clerk's Office shall have the right to deny any person or dog access to any or all dog parks/yards of the City for breach of the policies and regulations set forth in this article, or of separate regulations adopted by resolution of the City Council. Such denials may be appealed to the City Council.

**H.**

The actual owner of any dog, and the handler, if different, shall be jointly and severally liable for any injuries or damage caused as a result of the use of any dog park.

**§ 215-7.1–9 Prohibition of alcohol, drug use or food.**

**A.**

Possession or consumption of alcohol or drugs is prohibited in dog parks/yards at all times. All handlers shall be free from the influence of alcohol or drugs while escorting, transiting, training or accompanying a dog in a dog park/yard.

**B.**

No food, including dog food or treats, shall be allowed in the off-leash area of a dog park/yard.

**§ 215-7.1–10 Prohibition of noise-producing devices.**

**A.**

In order to promote the ability of each handler to keep a dog under voice and sound control within the dog park/yard, the use of any noise-producing devices, including radios, television sets, musical instruments, boom boxes, or equipment driven by motors or engines, is prohibited in every dog park/yard.

**B.**

This section shall not prohibit the use of law enforcement equipment, equipment for custodial maintenance, or mobility-enhancing devices for disabled individuals.

**§ 215-7.1–11 Dog vaccinations.**

**A.**

Before entering a dog park, each dog shall have current vaccinations required by law, and each handler shall be prepared to provide documentation to enforcement officers of the current vaccinations upon request. Suitable documentation shall consist of veterinary records, vaccine certificates and/or receipts identifying vaccinations issued by a licensed veterinarian. Dogs shall be free of internal parasites upon entering a dog park. Dogs shall have been treated within the preceding 30 days of the first entry for control of fleas, ticks or other external parasites.

**B.**

Required vaccinations shall include distemper virus, infectious canine hepatitis, leptospirosis, and parvovirus, together with any other vaccinations required by state or county law which are not included among the aforesaid. Unless required by state or county law, it is recommended but not required that dogs have current vaccinations for parainfluenza and Bordetella.

**§ 215-7.1–12 Responsibilities of handlers; control of dogs.**

**A.**

Any dog transited to or from the handler's vehicle, or outside of a designated off-leash area, shall be on a leash no longer than six feet.

**B.**

Handlers shall carry a leash no longer than six feet for each dog in the handler's care in the off-leash area.

**C.**

A handler shall not bring more than two dogs into the off-leash area at any time.

**D.**

To prevent injury, a handler shall remove pinch or choke collars from a dog before entry into the off-leash area.

**E.**

A handler shall not bring a puppy under the age of 16 weeks into any dog park/yard.

**F.**

Female dogs in estrus (commonly referred to as "in heat") shall be prohibited from entering any portion of a dog park/yard, either on-leash or off-leash areas.

**G.**

When the handler's dog is in the off-leash area, the handler shall remain within the off-leash area, and the handler shall keep dog within view and under verbal, sound or signal control at all times.

**H.**

Each handler in the off-leash area shall be at least 18 years of age. Minor children entering the off-leash area must be accompanied by a responsible adult. Children six years of age and under are not allowed in the off-leash area.

**I.**

All dogs shall have a valid dog license and dog park/yard entry tags attached to them.

**J.**

Handlers shall comply with all other dog park/yard rules which may be adopted by the City and which shall be posted in a conspicuous location at each dog park/yard.

**K.**

Any dog that exhibits aggressive behavior within a dog park/yard shall be immediately removed by its handler.

**L.**

No persons are permitted to enter any off-leash area unless accompanied by a dog.

**§ 215-7.1–13 Dog behavior.**

**A.**

Handlers shall insure that dogs demonstrate safe behavior and social interaction at all times toward people and other dogs.

**B.**

Dogs displaying aggressive behavior of any kind shall be immediately leashed and removed from the off-leash area, after which they shall immediately leave the City park/yard.

**C.**

Local or state regulations pertaining to dangerous dogs are applicable to all dogs and handlers entering a dog park/yard. Those state or local regulations are not suspended while a dog or handler is within an off-leash area.

**D.**

Any enforcement officer may issue a written notice of violation against the handler of a dog that exhibits aggressive, dangerous or vicious behavior within a dog park/yard and may further issue written notices of violation against any handler who fails to act in accordance with this article and any additional rules and regulations governing dog parks/yards adopted by the City. Upon issuance of a notice of violation, the dog and, in the event that such notice is issued against a handler, the handler shall be prohibited from entering any dog park/yard unless and until final adjudication of the matter. In the event that adjudication results in a declaration that the dog is a dangerous dog, the dog shall not be permitted to return to any dog park/yard, and the owner shall immediately relinquish the dog's entry tag to the City Clerk. Causation of actual physical injury is not a prerequisite to issuance of the notice. Any individual who enters a dog park/yard following receipt of a notice of violation, but prior to final adjudication of the same, shall be subject to prosecution for trespass under this state's Penal Law, in addition to the enforcement provisions of this article and all other applicable laws.

**§ 215-7.1–14 Dog park entry requirements; fees.**

**A.**

Each dog entering a dog park/yard shall have a current dog license and tag issued pursuant to Article 7 of the state's Agriculture and Market Law. The dog license tag shall be attached to the dog's collar, and such collar shall remain on the dog at all times while in the dog park/yard or moving to or from the dog park/yard.

**B.**

Each dog entering a dog park/yard shall wear an individual dog park entry tag indicating that the annual dog park entry fee has been paid to the City, provided that if the dog park/yard entry tag is issued after January 31 of any year, the fee shall be prorated for the remainder of the year. Payment of the annual dog park/yard entry fee entitles the handler to a single, colorized dog park/yard entry tag applicable to the dog for which it was issued. Entry tags shall be issued on a calendar-year basis. The dog park/yard entry tag shall be colored to denote the calendar year for which it is valid. There shall be a one-month grace period

(January) during which time a dog may still have the dog park/yard entry tag for the previous calendar year. The dog park/yard entry tag allows the authorized dog to enter any City dog park/yard unless a handler or owner of the dog has been issued a notice of violation relating to either that dog or the handler. Applications for an initial dog park/yard entry tag shall be made to the City Clerk or such other person as designated by the City Council by resolution. Initial applications shall include photographs of both side profiles of the animal's full body and a photograph of the face of the dog facing forward. Applications shall be accompanied by proof of the vaccinations required by this article. Applications shall identify the breed, or mixed breeding, of each dog. Any misrepresentation on the application for dog park/yard entry tags shall be a violation of this article and may additionally expose the applicant to liability for filing of a false instrument under this state's Penal Law.

**C.**

A limited number of dog park/yard entry tags may be authorized by the City in any given year. If the Code Committee of the Common Council determines to set such a limit, it shall consider the number, size and location of dog parks/yards within the City, as well as available maintenance funds and such other factors it deems appropriate, when determining the number of dog park entry tags to make available in a given year.

**D.**

Residents of other municipalities must pay a surcharge to be entitled to entry to a dog park/yard owned and operated by the City of Port Jervis

**E.**

The City Council may, by resolution, from time to time amend dog park entry tag fees.

**F.**

If the ownership of a dog for which a dog park/yard entry tag has been issued changes, prior to bringing the dog to any City of Port Jervis dog park/yard, the new owner shall complete an application, provide a new dog picture, and pay a new dog park entry fee to the City in order to transfer the dog park entry tag.

**G.**

All fees shall be paid to the City of Port Jervis City Clerk and shall be deposited in a separate fund for City of Port Jervis park upgrades. No portion of any fee paid pursuant to this article shall be refundable.

**H.**

Fees charged in this subsection may be amended by resolution of the City Council. The City Council may establish higher fees for dog owners residing outside the city.

**I.**

Dog park/yard entry tags shall not be available for any dog that has been designated as a dangerous dog. The owner of a dog that is deemed a dangerous dog after issuance of a dog park/yard entry tag shall immediately relinquish said entry tag to the City Clerk following such designation.

**§ 215-7.1–15 Violation of regulations; penalties for offenses.**

**A.**

Failure to comply with the provisions of this article shall constitute a violation. Each and every separate violation of the provisions of this article is a violation and, upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 15 days for a first offense. Maximum fines shall be \$750 or imprisonment not to exceed 30 days for a second offense and \$1,500 or imprisonment not to exceed 30 days for a third or greater offense occurring, in all events, within 18 months. In addition, and notwithstanding the foregoing, any dog, owner or handler that is found to have violated this article three times within 18 months shall be permanently prohibited from using or entering any Rhinebeck dog park and shall not be entitled to obtain a dog park entry tag.

**B.**

In addition to the authority granted § -(dog behavior)D of this article, an enforcement officer shall be authorized to issue appearance tickets for any violation of this article.

**C.**

An action or proceeding may be instituted in the name of the City of Port Jervis, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this article or any notice or order issued by an enforcement officer pursuant to any provision of this article. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the City Council.

§ 215-7.1–16 **Prior written notification required.**

The City of Port Jervis, Orange County, New York, and its officers, employees, volunteers and representatives, shall not be liable for, nor shall any civil action be maintained against any of them for, damages or injuries to person or property sustained by reason of any defect in the condition, maintenance or repair of any physical structure or condition at any dog park, including, without limitation, fencing, locks, ground surface, lighting, insect and animal nests, and sitting areas, unless prior written notice of such defective condition specifying the nature of the defect and the particular place it was found was actually given to the City Clerk and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect.