



**GARDINER CITY COUNCIL  
AGENDA ITEM INFORMATION SHEET**



<b>Meeting Date</b>	02/03/2021	<b>Department</b>	Planning/Economic Dev
<b>Agenda Item</b>	4.e Consider Sending Proposed Dog Kennel Ordinance/Code Changes to a Public Hearing		
<b>Est. Cost</b>	n/a		

<b>Background Information</b>	<p>Attached is the proposed amendments to the Land Use Code and the City of Gardiner Code.</p> <p>The Ordinance Review Committee proposed the following changes:</p> <ol style="list-style-type: none"> <li>1. Amend the definition of kennel in the Land Use Ordinance to reference the state definitions of kennel. This will solve the problem of anyone having three or more dogs being a considered to be a kennel and therefore only allowed in limited areas of the City and make the City's provisions consistent with the state regulations.</li> <li>2. Revise the zones within which kennels are allowed. Currently they are allowed only in the Rural and PD Districts. The amendments add kennels as a permitted use in the PIC District</li> <li>3. Update the performance standards for kennels in the Land Use Ordinance.</li> <li>4. Revise the provisions for fences in residential areas to limit fences in the front yard to a maximum of four feet in height and prohibit "privacy fences" or chain-link fences in the front yard unless they meet the setback requirements. This would apply in the RG, HDR, PR, PD and MUV Districts.</li> <li>5. Update the barking dogs provision in Section 1762 of the Code of Ordinances.</li> </ol> <p>A Public Hearing has been held by the Planning Board.</p> <p>Pertinent materials are attached.</p>
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<b>Requested Action</b>	'I move to send the proposed changes to the Land Use Ordinance and City of Gardiner Code to Public Hearings and First and Second Reads on February 17, 2021 and March 3, 2021 respectfully.'
<b>City Manager and/or Finance Review</b>	The City Manager, CEO, ORC, Planning Board and EDD recommend the above action.
<b>Council Vote/ Action Taken</b>	
<b>Departmental Follow-Up</b>	

<b>City Clerk Use Only</b>	1 <sup>st</sup> Reading _____	Advertised _____	<b>EFFECTIVE DATE</b> _____
	2 <sup>nd</sup> Reading _____	Advertised _____ w/in 15 Days	
	Final to Dept _____	Updated Book _____	Online _____

To: City Council  
From: Ordinance Review Committee - Mark Eyerman  
Subject: Barking Dogs  
Date: January 19, 2021

The ORC has prepared possible ordinance amendments to address the situation with dogs, especially barking dogs. The amendments deal with both the Land Use Ordinance and Section 1762 of the Code of Ordinances. The amendments have been reviewed by Jon Pottle and the Police Chief who forwarded them to the District Attorney for review. The Planning Board held a public hearing on the amendments to the Land Use Ordinance and recommended adoption. The amendment package includes the following amendments to the Land Use Ordinance and Section 1762 of the Code of Ordinances:

1. Amend the definition of kennel in the Land Use Ordinance to reference the state definitions of kennel. This will solve the problem of anyone having three or more dogs being a considered to be a kennel and therefore only allowed in limited areas of the City and make the City's provisions consistent with the state regulations.
2. Revise the zones within which kennels are allowed. Currently they are allowed only in the Rural and PD Districts. The amendments add kennels as a permitted use in the PIC District
3. Update the performance standards for kennels in the Land Use Ordinance.
4. Revise the provisions for fences in residential areas to limit fences in the front yard to a maximum of four feet in height and prohibit "privacy fences" or chain-link fences in the front yard unless they meet the setback requirements. This would apply in the RG, HDR, PR, PD and MUV Districts.
5. Update the barking dogs provision in Section 1762 of the Code of Ordinances.

## Recommended Amendments to the Land Use Ordinance Dealing with Dogs and Kennels

Proposed additions to the ordinance are underlined;  
proposed deletions are ~~struck out~~.

1. Amend the definition of kennel in Section 17 Definitions to read:

**Kennel:** ~~Any place, building, tract of land, abode, enclosure, or vehicle where 3 or more dogs or 3 or more cats, owned singly or jointly, are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dogs or other pets are kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of 6 months. Any use or activity that is defined as a kennel, boarding kennel, breeding kennel or animal shelter by Section 3907 of Title 7 M.R.S.A Part 9 Animal Welfare.~~

2. Amend Section 7.6.3 Commercial Uses in Section 7.6 Land Use Table so that the provisions dealing with kennels reads as follows:

Commercial Uses																
	RP	SLR	SL	R	RG	HDR	PR	TD	PIC	PD	ECR	CC	MUV	PHD	IT	CPD
Accessory Business Use	N	N	N	N	N	P <sup>11</sup>	P <sup>11</sup>	N	N	N	N	N	N	N	N	N
Adult Businesses	N	N	N	N	N	N	N	N	P	N	N	N	N	N	N	N
Auction Barn	N	N	N	N	N	N	N	P	N	P	N	N	P <sup>8</sup>	P	N	N
Automobile Repair	N	N	N	P	N	N	N	N	P	P	N	N	P <sup>6</sup>	P	N	N
Automobile/Vehicle Sales & Service	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N
Bank	N	N	N	N	N	N	P	P	P	P	N	P	P	P	P	N
Bed & Breakfast	N	P	P	P	P	P	P	P	P	P	N	P	P	N	P	P
Building Supply	N	N	N	N	N	N	N	P	N	P	N	N	N	P	P	N
Catering	N	N	N	P	P <sup>9</sup>	N	P	P	N	P	N	P	P	P	P	P
Communication Facility exclusive of towers	N	N	N	P	N	N	N	P	P	P	N	N	P	C	P	N
Communication Facility in alternative tower structure	N	N	N	P	P	P	P	P	P	P	N	P	P	C	P	P
Communication Tower	N	N	N	P	N	N	N	N	P	N	N	N	N	P	N	N
Construction Services	N	N	N	P	N	N	N	N	P	P	N	N	N	P <sup>7</sup>	N	N
Convenience Store including Retail Fuel Sales	N	N	N	N	N	N	N	N	P	P	N	N	P	P	P	N
Crematory	N	N	N	P	N	N	N	N	P	N	N	N	N	N	N	N
Funeral Home	N	N	N	P	N	N	P	P	N	P	N	N	P	P	P	N
Indoor Recreation Facility	N	N	N	N	N	N	N	P	P	P	N	P	P <sup>6</sup>	P	P	N
Junkyards & Auto Graveyards	N	N	N	P	N	N	N	N	N	N	N	N	N	N	N	N
Kennels	N	N	N	P	N	N	N	N	PH	P	N	N	N	N	N	N

3. Amend Section 10.4.1 Kennels to read:

**10.4.1 Kennels**

10.4.1.1 The permanent or temporary housing of dogs for any purpose, including but not limited to breeding, trials, or exhibition, training, grooming, or sheltering stray or lost dogs, shall be limited to enclosed structures constructed of masonry (to at least 4 feet above the finished floor level) to provide for cleanliness, ease of maintenance and noise control.

10.4.1.2 If outdoor runs are provided, they shall be completely enclosed by a 6-foot fence and shall be paved with cement, asphalt or similar material to provide for cleanliness and ease of maintenance.

10.4.1.3 Outdoor runs shall be located at least 100 feet from all property lines and at least 200 feet from the nearest dwelling existing or under construction on the date of the kennel's application. The setback shall not apply to the owner's own dwelling [if it is located on the same lot as the kennel.](#)

4. Amend Section 10.26 Fence Standards to read:

**10.26 Fence Standards**

No fence shall be erected, constructed or re-constructed to a height of more than 6 feet when located ~~in between a property boundary line and~~ the required side, rear or front setback. [In the RG, HDR, PR, PD and MUV Districts any fence located within a required front yard setback shall be limited to a height of not more than four \(4\) feet.](#)

[Within the RG, HDR, PR, PD, and MUV Districts any fence located within the required front yard setback shall be made of material that is not solid or opaque. The use of chain-link style fencing is not permitted within the required front yard setback in these districts.](#)

The fence owner shall be responsible for locating the fence on his/her property.

The fence owner shall place all structural framing and posts facing towards his/her property.

No fence shall be erected, constructed or re-constructed so as to obstruct the sight lines at a driveway entrance/exit, street intersection or corner.

## Recommended Amendments to Section 1762 the Code of Ordinances Dealing with Barking Dogs

Proposed additions to the ordinance are underlined;  
proposed deletions are ~~struck-out~~.

Amend Section 1762 of the Code of Ordinances to read:

### **Section 1762. Barking Dogs**

~~No owner shall keep or harbor any dog which by loud, frequent, or habitual barking, howling or yelping shall disturb the peace of any person or persons.~~

1762.1 Excessive Barking – Any owner or person having custody of a dog or dogs within the City shall not permit the dog or dogs to create a nuisance by continued or repeated barking, howling, yelping or making other loud or unusual noises. A dog or dogs that bark, howl, yelp or otherwise create a loud or unusual noise for a sustained period of one (1) hour or intermittently for three (3) hours that can be heard beyond the property line of the property on which the dog(s) is located has created a nuisance and the owner or person having custody of the dog(s) is in violation of this section.

1762.2 Complaint – Any person disturbed by a barking dog in violation of 1762.1 shall file a written complaint with the City’s Animal Control Officer or any Police Officer. The complaint shall include the date and time the disturbance began, a description of the disturbance, and the length of time of the disturbance. The complaint must be signed and sworn to the Animal Control or other Police Officer. The officer shall investigate the complaint and may give written warning to the owner or person having custody of the dog(s) of the violation and may order that the violation ceases.

1762.3 Exemptions – The barking of certain dogs may be exempted from the provisions of this section by the Animal Control Officer or other Police Officer on an incident by incident basis including when the dogs are in kennels or are special purpose dogs such as guide dogs, working dogs, and rescue dogs. This provision is intended to provide the officers with the latitude to determine if the barking constitutes a nuisance, however, pursuant to 7 M.R.S. § 3950(1), this section does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock.

1762.4 Failure to Comply – If the owner or person with custody of a dog that has been determined to be a nuisance in accordance with 1762.2 allows the dog to continue to violate the ordinance and a subsequent complaint is filed, the owner or other person shall have committed a civil violation and shall be subject to the penalties set forth in Section 1767.

*1762.5 Repeated Violations* – If the owner or person with custody of a dog that has been determined to be a nuisance is in violation of this section more than three (3) times in any twelve (12) month period, the Animal Control Officer may impound the dog in accordance with the provisions of Section 1763.