

## Chapter 152. Animals

### Article I. Outdoor Tethering of Dogs

[Adopted 11-18-2014 by L.L. No. 7-2014]

#### § 152-1. Legislative intent and findings.

[Amended 8-17-2021 by L.L. No. 7-2021]

The Ulster County Legislature has determined that the practice of tethering a dog outdoors for a prolonged period is inhumane and presents a threat to the safety of the dog, other animals and human beings. The Legislature has further determined that it is in the best interest of the residents of Ulster County, as well as their pets, to ensure the safety of all by regulating the amount of time, as well as the manner in which, a dog may be tethered. The intent is for a person to tether a dog outside no longer than necessary.

#### § 152-2. Definitions.

[Amended 8-17-2021 by L.L. No. 7-2021]

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

##### **TETHER**

To restrain a dog by attaching the dog to any stationary object or structure, including without limitation a house, tree, fence, post, garage, or shed, or mobile device, including, without limitation, a trolley or pulley, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering does not include the use of a leash to walk a dog.

##### **WEATHER ALERT**

A National Weather Service watch, warning or advisory issued by local, state or federal authority for potential hazardous weather of concern, including but not limited to flood, heat advisory, frigid weather, snow or ice storm, tornados, tropical storm, high winds or thunderstorms.

#### § 152-3. Tethering regulations.

[Amended 8-17-2021 by L.L. No. 7-2021]

- A. The tether must be attached to the dog with a properly fitted buckle-type collar or a body harness made of material not normally susceptible to being severed by the dog through chewing or otherwise and that will not cause trauma or injury to the dog. Choke- or pinch-type collars, attached weights and chains over 1/4 inch thick cannot be utilized for tethering.
- B. The length of a stationary tether shall not be less than 10 feet or five times the length of the dog's body as measured from the tip of the nose to the base of the tail, whichever length is greater; shall connect at both ends with a swivel and be affixed in such a manner that it will prevent the dog from becoming entangled or injured; shall weigh less than 1/10 of the dog's weight; and shall restrain the dog to the owner's property while also preventing the dog from reaching hazards,

including but not limited to a pool, fence, porch or railing that poses a strangulation risk, and/or other animals.

- C. A dog, whether tethered or confined in a yard, outdoor kennel, or a wireless dog fence, must have unencumbered access to shade, food, water, shelter and dry ground without becoming entangled.
- D. A dog shall not be tethered outdoors during a weather alert or when outside weather conditions, including but not limited to extreme heat, cold, wind, rain, snow or hail, pose an adverse risk to the health or safety of a dog based on breed, age or physical condition, in accordance with the industry standard set forth in the Tufts Animal Care and Condition Weather Safety Scale. Extreme heat and cold limitations are set as an ambient temperature of 80° F. and 35° F., respectively.
- E. A dog shall not be tethered in any of the following circumstances: under six months of age; a nursing female; when suffering illness, debilitating disease, injury, in distress, or in the advanced stages of pregnancy.
- F. A tethered dog must be apparently free of any health condition that would be exacerbated by tethering.
- G. If there are multiple dogs, each must be tethered separately.
- H. A tethered dog shall have access to appropriate shelter that will allow the dog to remain dry and to be protected from the elements. In addition to complying with the requirements of § 353-b of New York State Agriculture and Markets Law, the shelter shall be fully enclosed on all sides except one, which side shall have an opening that will allow the dog easy entry to and exit from the shelter; have a slanted, waterproof roof; and have a solid floor. The shelter shall contain clean bedding or straw/shavings. If straw/shavings is used, it must be replaced at least once a month so that the dog can burrow into it for warmth. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down with limbs outstretched, and turn around comfortably. The area around the shelter shall be kept free of standing water, ice and waste.
- I. A dog shall not be tethered outside for longer than five consecutive hours in a twenty-four-hour period or a total time outside in excess of 10 hours and outside from 10:00 p.m. to 6:00 a.m.
- J. In addition to the above requirements, tethered dogs must be free of cruel conditions or inhumane tethering at any time. For purposes of this section, "cruel conditions or inhumane tethering" shall include the following:
  - (1) Exposure to animal waste, garbage, noxious odors or objects that could injure or kill a dog.
  - (2) Exposure to taunting, prodding, provoking, hitting, harassing, threatening or otherwise harming a tethered dog.
  - (3) Exposing a dog to dangerous conditions, including potential attacks by other animals.
  - (4) Tethered on vacant property.
  - (5) Any tethering that causes injury or death.

## § 152-4. Enforcement; penalties for offenses.

- A. This article shall be enforced by the office of the Ulster County Sheriff and may also be enforced by any constable, police officer, local dog control or animal control officer, or any agent or officer of any duly incorporated society for the prevention of cruelty to animals with jurisdiction within Ulster County.  
[Amended 8-17-2021 by L.L. No. 7-2021]
- B. A violation of any of the provisions of this article shall, for a first offense, be punishable by a fine of up to \$100 and/or an educational component at the judge's discretion.

- C. For a second offense, the fine shall be up to \$500 and/or 50 hours of community service plus reimbursement of investigation costs.
- D. For a third or subsequent violation, the fine shall be \$1,000 and/or 150 hours of community service plus surrender of the dog, if ordered by the court, plus costs of investigation and prosecution, not to exceed \$2,000. In addition, all third-time offenders, subsequent to the enactment of this article, are required to register as an animal abuser on the Ulster County Animal Abuse Registry.  
[Amended 8-17-2021 by L.L. No. 7-2021]
- E. Fines collected pursuant to this section shall be deposited with the Ulster County Commissioner of Finance, identified with a separate General Ledger account number in the Sheriff's budget, and shall be used for animal protection education in the County of Ulster and/or the maintenance of an animal abuse registry.  
[Amended 8-17-2021 by L.L. No. 7-2021]

## § 152-5. Exceptions.

A dog tethered in compliance with the requirements of a campground area holding an Ulster County Health Department permit shall be exempt from these regulations.

## § 152-6. Effect on other laws.

This article will have no effect in a city, town or village located within the County of Ulster that has enacted an ordinance, resolution, or law regulating the tethering of dogs within its jurisdiction.

## Article II. Animal Abuse Registry

[Adopted 9-15-2015 by L.L. No. 12-2015]

## § 152-7. Legislative intent.

- A. The Ulster County Legislature (the "Legislature") hereby finds that animal cruelty is a serious problem, resulting in the abuse and neglect of thousands of animals each year in the United States.
- B. The Legislature also finds that while New York State has criminalized the cruel treatment of animals, animal abuse continues to occur in Ulster County and throughout the state.
- C. The Legislature also finds that people who have abused animals in the past are likely to do so in the future, and studies show that there is a near 100% recidivism rate for certain types of abuse, such as animal hoarding.
- D. The Legislature finds that, statistically, individuals who abuse animals are more likely to commit violent acts against humans.
- E. The Legislature also finds that a strong correlation has been established linking individuals who abuse animals with incidents of domestic violence.
- F. The Legislature further finds that it is in the best interests of Ulster County residents to establish an animal abuse registry to identify individuals who abuse animals and who, therefore, may be more likely to commit other acts of violence, and to prevent these individuals from adopting, purchasing, or otherwise obtaining animals by adoption, sale, or other means.
- G. Therefore, the purpose of enacting this article is to establish an online registry for individuals who are convicted of animal abuse and neglect crimes.

## § 152-8. Definitions.

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

### **ANIMAL ABUSE CRIME**

The commission of the following enumerated crimes against an animal:

- A. Animal fighting, as defined in the New York State Agriculture and Markets Law (hereinafter "AML") § 351;
- B. Overdriving, torturing, and injuring animals; failure to provide proper sustenance, as defined in AML § 353;
- C. Aggravated cruelty to animals, as defined in AML § 353-a;
- D. Electrocution of fur bearing animals, as defined in AML § 353-C;
- E. Abandonment of animals, as defined in AML § 355;
- F. Failure to provide proper food and drink to an impounded animal, as defined in AML § 356;
- G. Poisoning or attempting to poison animals, as defined in AML § 360;
- H. Interference with or injury to certain domestic animals, as defined in AML § 361;
- I. Clipping or cutting the ears of dogs, as defined in AML § 365;
- J. Companion animal stealing, as defined in AML § 366(3);
- K. Removing, seizing or transporting dogs for research purposes, as defined in AML § 366-a;
- L. Operating upon tails of horses, in violation of AML § 368;
- M. Sexual misconduct with an animal, as defined by New York State Penal Law (hereinafter "PL") § 130.20(3);
- N. Harming an animal trained to aid a person with a disability, as defined by PL § 195.11;
- O. Killing or injuring a police animal, as defined by PL § 195.12;
- P. Harming a service animal in the second degree, as defined by PL § 242.10;
- Q. Harming a service animal in the first degree, as defined by PL § 242.15.

### **CONVICTED OF**

An adjudication of guilty by any court of competent jurisdiction, whether upon a verdict of guilty or a plea of guilty.

### **ULSTER COUNTY ANIMAL ABUSE REGISTRY**

The online registry established by this article for registering any person living in Ulster County convicted of an animal abuse crime.

## § 152-9. Creation of registry.

A registry is hereby created which shall contain the names and residence information of individuals who are convicted of animal abuse crimes. The Ulster County District Attorney is hereby authorized and empowered to contract with qualified organizations dedicated to animal protection, rescue, and/or preventing animal abuse to establish and maintain a publicly accessible registry for such individuals. All fees collected by Ulster County shall be used for the maintenance and administration of the registry.

## § 152-10. Registration requirements.

- A. All persons 18 years of age or older who reside in Ulster County and are convicted of an animal abuse crime on or after the effective date of this article must register with the Ulster County Animal Abuse Registry at the office of the Ulster County District Attorney, or the office of his or her authorized agent, within 10 days following their release from incarceration or, if not incarcerated, from the date of conviction.
- B. The Ulster County District Attorney, or his or her authorized agent, shall promptly notify all persons convicted of animal abuse crimes in Ulster County that they must register with the Ulster County Animal Abuse Registry within 10 days following their release from incarceration or, if not incarcerated, from the date of conviction.
- C. Each person required to register with the Ulster County Animal Abuse Registry shall submit:
  - (1) His or her name;
  - (2) Any aliases he or she is known under;
  - (3) His or her residential address; and
  - (4) A photograph of his or her head and shoulders from the front.
- D. Each person registered with the Ulster County Animal Abuse Registry shall update his or her registration information within 10 days of moving from one residential address to another.
- E. For the first conviction of an animal abuse crime, a person required to register with the Ulster County Animal Abuse Registry shall remain on the registry for 15 years following his or her release from incarceration or the date of conviction, whichever is later. For a second conviction, and any convictions thereafter, a registered person shall remain permanently on the registry.
- F. Upon notification to the Ulster County District Attorney's office, or his or her authorized agent, of a successful appeal of a conviction of an animal abuse crime by an individual that has been required to register pursuant to this article, the registration information for that individual shall be removed from the Ulster County Animal Abuse Registry within five days following the notification.

## § 152-11. Sharing of registration information.

- A. The Ulster County District Attorney, or his or her authorized agent, shall make the Animal Abuse Registry available to the Ulster County Child Protective Services and the Department of Social Services, and is authorized to make the registry available to any state, regional, or national government-operated registry of animal abusers for the purpose of sharing information.
- B. The Ulster County District Attorney, or his or her authorized agent, may accept files from any state, regional, or national registry of animal abusers.
- C. The Ulster County District Attorney, or his or her authorized agent, is authorized to make the registry information available within a reasonable amount of time to any animal registry.

## § 152-12. Fees.

Every person required to register with the Animal Abuse Registry shall pay a fee of \$100 to Ulster County at the time of registration. These funds will be used to pay the administrative costs of maintaining the registry.

## § 152-13. Rules and regulations.

The Ulster County District Attorney is hereby authorized and empowered to promulgate such rules and regulations as are necessary to implement this article.

## § 152-14. Penalties for offenses.

Any person required to register with the Ulster County Animal Abuse Registry who fails to so register shall be guilty of a violation punishable by a fine of not less than \$100 and not more than \$250; or imprisonment for not more than 15 days; or both. Violations under this article shall be prosecuted by the Ulster County District Attorney's Office and shall be adjudicated by a court of competent jurisdiction.

## § 152-15. Applicability.

This article shall apply to all persons convicted of an animal abuse crime on or after the effective date of this article.

## Article III. Regulation of Pet Sellers

[Adopted 3-22-2017 by L.L. No. 2-2017]

## § 152-16. Legislative intent.

Many Ulster County residents own dogs and cats. The Ulster County Legislature finds that Ulster County residents feel a great deal of affection for their dogs and cats and consider them to be a part of their family and, accordingly, invest significant amounts of money in their care and maintenance. Dogs and cats are made available to the public from a number of different sources, including, but not limited to, breeders, dealers, and pet sellers. The Legislature finds that breeders, dealers, and pet sellers vary in their treatment of cats and dogs and that some operate substandard commercial facilities that expose dogs and cats to inhumane and unsafe living conditions. The Legislature further finds that some breeders, dealers, and pet sellers will sell animals that are unfit for sale due to, among other things, diseases or congenital conditions. Therefore, the Legislature deems that the regulation of breeders, dealers, and pet sellers is necessary to protect the health, safety, and general welfare of Ulster County residents.

## § 152-17. Definitions.

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

### **ANIMAL**

A dog or cat.

### **CLINICALLY ILL**

An illness that is apparent to a veterinarian based on observation, examination or testing of an animal or upon review of the medical records relating to the animal.

### **COMMISSIONER**

The Commissioner of the Ulster County Department of Health.

### **CONSUMER**

Any individual purchasing an animal from a pet seller or a residential breeder. A pet seller or a residential breeder shall not be considered a consumer.

**DEPARTMENT**

The Ulster County Department of Health.

**DOG DEALER**

Any person who:

- A. Sells dogs belonging to such person that he or she has not bred on his or her own premises to a pet seller in Ulster County for resale to a consumer; or
- B. Transfers dogs belonging to another to a pet seller in Ulster County for any type of consideration, fee, commission or percentage of sales price.

**DOG SOURCE BREEDER**

Any person who sells dogs he or she has bred on his or her own premises for resale by a dog dealer or pet seller in Ulster County.

**HOUSING FACILITY**

A structure that provides animals with shelter, protection from the elements and protection from extremes of temperature. A housing facility may contain primary enclosures as defined in this section.

**NONELECTIVE SURGICAL PROCEDURE**

A surgical procedure that is necessary to preserve or restore the health of an animal, to prevent an animal from experiencing pain or discomfort, or to correct a condition that would interfere with an animal's ability to walk, run, jump or otherwise function in a normal manner.

**PERSON**

Any individual, corporation, partnership, association, municipality or other legal entity.

**PET SELLER**

Any person in Ulster County who engages in the sale or offering for sale of nine or more dogs or cats per calendar year or who breeds more than two litters of dogs or cats per calendar year for sale to the public for profit. This definition shall not include a residential breeder; nor shall this definition include duly incorporated humane societies or animal protective associations dedicated to the care of unwanted animals which make such animals available for adoption, whether or not a fee is charged for such adoption.

**PRIMARY ENCLOSURE**

A structure that restricts an animal's ability to move in a limited amount of space, most commonly a cage, kennel, room or other enclosed compartment.

**RESIDENTIAL BREEDER**

A breeder who sells or offers to sell directly to a consumer animals that are born and raised on the breeder's primary residential premises and shall not be considered a pet seller as a result of selling or offering to sell such animals.

**§ 152-18. Pet seller's permit required.**

- A. It is unlawful for any pet seller to display, offer for sale, sell, barter or exchange for any consideration any dog or cat within Ulster County without first obtaining a pet seller's permit from the Commissioner.
- B. The Commissioner shall issue permits to pet sellers only upon proof that the animals displayed, offered for sale or sold by such sellers are raised and maintained in accordance with the terms contained in this article.
- C. For purposes of this article, a dog or cat is raised and maintained in a safe and healthy manner when:

- (1) The dog or cat is kept by a pet seller in compliance with the minimum standards of care required by § 152-24 of this article; and
- (2) (For dogs only) The dog was obtained from a dog source breeder who keeps dogs in compliance with the minimum standards of care required by § 152-28 of this article; and
- (3) Compliance with Subsection C(1) shall be established through inspection by the Commissioner in accordance with § 152-23 of this article, and compliance with Subsection C(2) shall be established by the certification required by § 152-27 of this article.

## § 152-19. Residential breeder's permit required.

- A. It is unlawful for any residential breeder to display, offer for sale, sell, barter or exchange for any consideration more than 15 dogs or cats within Ulster County without first obtaining a residential breeder's permit from the Commissioner.
- B. The Commissioner shall issue permits to residential breeders only upon proof that the animals displayed, offered for sale or sold by such breeders are raised and maintained in accordance with § 152-29 of this article.
- C. A residential breeder permit shall be valid for five years from the date of issue.

## § 152-20. Permit procedure.

- A. No person shall operate as a pet seller or a residential breeder in Ulster County unless such person holds the appropriate permit issued by the Commissioner. A pet seller or residential breeder in operation as a pet seller or residential breeder on or before the effective date of this section who has filed an application for an initial permit under this article shall be authorized to operate without such permit until the Commissioner grants or, after notice and an opportunity to be heard, declines to grant such permit. Each application for a permit shall be made on a form supplied by the Department and shall contain such information as may be required by the Department. Renewal applications for pet seller permits shall be submitted to the Commissioner at least 30 days prior to the commencement of the next permit year. Residential breeders shall submit renewal applications for residential breeder permits to the Commissioner at least 30 days prior to the expiration of the five-year permit.
- B. Proof to the satisfaction of the Commissioner of compliance with the requirements of this article and with other applicable provisions of this article shall precede issuance of a pet seller or residential breeder permit.
- C. Prior to the issuance of a pet seller or residential breeder permit, the pet seller or residential breeder shall provide proof that it is in compliance with the requirements of this article and any rules or regulations thereunder. Upon approval by the Commissioner, the appropriate permit shall be issued.
- D. The Commissioner shall provide a copy of the permit to the pet seller or residential breeder and retain the original permit.
- E. No pet seller or residential breeder shall publish or advertise the sale or availability of any dog or cat unless the publication or advertisement is accompanied by the pet seller's or residential breeder's permit number. Notwithstanding the foregoing, a pet seller or residential breeder in operation on or before the effective date of this article who has filed an application for an initial permit may publish or advertise the sale or availability of any dog or cat without the publication or advertisement being accompanied by the pet seller's or residential breeder's permit number until the Commissioner grants or, after notice and an opportunity to be heard, declines to grant such permit.

- F. Pet sellers or residential breeders shall conspicuously display their permits on the premises where the animals are kept for sale so that they can be seen by potential consumers.

## § 152-21. Permit refusal, suspension, or revocation.

- A. Convictions. The Commissioner shall not issue or renew, and shall suspend or revoke, a pet seller or residential breeder permit issued pursuant to § 152-19 of this article based on a conviction of a violation of any provision of Article 26 of the Agriculture and Markets Law, or equivalent in the Penal Law, or regulations promulgated thereunder pertaining to the inhumane treatment of animals, cruelty to animals, endangering the life or welfare of an animal, or violation of federal, state or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.
- B. Outstanding fines or penalties. The Commissioner shall not issue or renew a pet seller or residential breeder permit if there are unpaid or outstanding fines, penalties, or forfeitures imposed by the Commissioner for violations of this article.
- C. Outstanding uncorrected violations. The Commissioner shall not issue a new permit to any pet seller or residential breeder who has any outstanding, uncorrected violations of this article.
- D. The Commissioner may decline to grant or renew, or may suspend or revoke, a pet seller or residential breeder permit based on the following grounds:
- (1) Material misstatement in the permit application; or
  - (2) Material misstatement in or falsification of records required to be kept pursuant to this article, or under any regulation promulgated thereunder; or
  - (3) Failure to allow the Commissioner or his or her authorized agents to inspect records or the pet seller's or residential breeder's facilities.
- E. The acceptance of an application for a new permit shall not prevent the Commissioner from taking any action that he or she deems necessary, including but not limited to, denial of a permit if an investigation or prepermit inspection discloses conditions or circumstances indicating that a new permit should not be issued.
- F. Any pet seller or residential breeder who is found to be in violation of this article may have his or her pet seller or residential breeder permit suspended for up to three months for a first offense; up to six months for a second offense within a two-year period; or revoked for a third offense within a two-year period. Before any pet seller or residential breeder permit shall be suspended or revoked, the Commissioner, or any hearing officer he or she may designate, shall hold a hearing upon due notice to the permit holder in accordance with regulations promulgated by the Department. Any such violator may also be required to complete a training program designated by the Department prior to reinstatement of such license.
- G. Any action of the Commissioner may be subject to judicial review in a proceeding under Article 78 of the Civil Practice Law and Rules.

## § 152-22. Administration and enforcement.

- A. The Commissioner, in consultation with the Ulster County Board of Health, is hereby authorized to promulgate any rules, regulations, and procedures necessary to implement this article.
- B. The provisions of this article shall be enforced by the Department of Health.

## § 152-23. Inspection of pet sellers.

- A. The Commissioner or the Commissioner's authorized agents shall inspect a pet seller's or a residential breeder's facilities at the Commissioner's discretion to ensure compliance with the provisions of this article.
- B. Any person conducting an inspection of a pet seller or a residential breeder or responding to a complaint concerning a pet seller or a residential breeder pursuant to this article shall be a County employee specifically trained in the proper care of cats and dogs and in the investigation and identification of animal cruelty. The Commissioner may promulgate regulations governing the form and content of such training.

## § 152-24. Minimum standards of care for pet sellers.

- A. Pet sellers shall comply with the following minimum standards of care for every dog or cat in their custody or possession.
  - (1) Housing.
    - (a) Except where dogs or cats are permitted to roam freely inside a pet seller's residential premises, animals shall be housed in primary enclosures or cages that are structurally sound and maintained in good repair so as to prevent the dog or cat from escaping from the enclosure and protect it from injury. Surfaces shall be impervious and not permit absorption of fluids and allow thorough and repeated cleaning and disinfection without deteriorating or retaining odors. "Impervious surfaces" may include sealed concrete, ceramic tile, sealed wood, stainless steel or other materials that do not permit absorption of fluids, allow thorough and repeated cleaning and disinfection without deteriorating or retaining odors, and do not violate any other provision contained within this section.
    - (b) Primary enclosures or cages housing animals shall provide sufficient space to allow each animal adequate freedom of movement to make normal postural adjustments, including the ability to stand up, sit, turn around, and lie down with its limbs outstretched. If the flooring is constructed of metal strands, such strands must be greater than 1/8 inch in diameter (nine gauge) and be coated with a material such as plastic or fiberglass, and shall be constructed so as not to allow passage of any part of an animal's foot through any opening on the floor of the enclosure. The flooring must be in good repair and must not sag or bend between structural supports.
    - (c) Housing facilities shall be adequately ventilated at all times to provide for the health and well-being of the animal. Ventilation shall be provided by natural or mechanical means, such as windows, vents, fans or air conditioners. Ventilation shall be established to minimize drafts, odors, ammonia levels and moisture condensation.
    - (d) The temperature surrounding the animal shall be compatible with the health and well-being of the animal. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and shall not be permitted to fall below or rise above ranges which would pose a health hazard to the animal. This shall include supplying shade from sunlight by natural or artificial means.
    - (e) Indoor housing facilities shall have adequate lighting sufficient to permit routine inspection and cleaning and arranged so that each animal is protected from excessive illumination, which may pose a health hazard to the animal. Animal areas must be provided with a regular diurnal light cycle of either natural or artificial light.
    - (f) The indoor and outdoor facilities housing the dog or cat, including the primary enclosure or cage, shall be kept in a clean and sanitary condition in order to provide animals with a safe and healthy living environment. They shall be designed to allow for efficient elimination of waste and water in order to keep the animal dry and prevent it from coming into contact with these substances, except water for drinking purposes. If drains are used, they shall be constructed in a manner to minimize foul odors and backup of

sewage. If a drainage system is used, it shall comply with federal, state, and local laws relating to pollution control.

- (g) In the event that a pet seller has a pregnant or nursing dog on the pet seller's premises, the pet seller shall provide a whelping box for such dog. Each nursing dog shall be provided with an additional amount of floor space, based on her breed and behavioral characteristics, in accordance with generally accepted husbandry practices as determined by a licensed veterinarian.
- (h) Pet sellers shall designate and provide an isolation area for animals that exhibit symptoms of or are known to be harboring a contagious disease or illness. This designated area must be in a location that prevents or reduces the spread of disease or illness to healthy animals and must otherwise meet all housing requirements of this section.

(2) Sanitation.

- (a) Housing facilities and primary enclosures contained within those facilities shall be kept in a clean and sanitary condition in order to maintain a safe and healthy environment for the animal. This shall include removing and destroying any agents injurious to the animals, where appropriate, and periodic cleanings.
- (b) Primary enclosures must be cleaned daily and sanitized at least once every two weeks using one of the following methods:
  - [1] Live steam under pressure.
  - [2] Washing with water with a temperature of at least 180°F. and with soap or detergent.
  - [3] Washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfectant product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste so as to remove all organic and mineral buildup and to provide sanitization, followed by a clean water rinse.
  - [4] Dirt, sand, gravel, grass, absorbent bedding, or other similar material must be spot cleaned daily. These surfaces must be raked or spot cleaned often enough to ensure that all animals in the enclosure can avoid contact with excreta. Contaminated material must be replaced when raking and spot cleaning are not sufficient to prevent or eliminate odors or infestations of insects, pests, or other vermin.
- (c) Under no circumstances shall a dog or cat remain inside the primary enclosure or cage while it is being cleaned with live steam, sterilizing agents or agents toxic to the animal, or cleaned in a manner likely to threaten the health and safety of the animal. Trash and waste products on the premises shall be properly contained and disposed of so as to minimize the risks of disease, contamination, and vermin.

(3) Feeding and watering.

- (a) Animals shall be provided with food that is of nutritional value sufficient to maintain each animal in good health and that is free from contamination.
- (b) Dogs and cats shall be adequately fed at intervals not to exceed 12 hours or at least twice in any twenty-four-hour period in quantities appropriate for the animal species, age, and size, unless determined otherwise by and under the direct supervision of a duly licensed veterinarian.
- (c) Sanitary food receptacles shall be provided in sufficient number, of adequate size, and located so as to enable each animal in the cage or primary enclosure to be supplied with an adequate amount of food.

- (d) Animals shall be provided with constant access to clean, fresh water that is supplied in a sanitary manner and sufficient for their needs, except where there are instructions from a duly licensed veterinarian to withhold water for medical reasons.
- (4) Handling. Each dog or cat shall be handled in a humane manner so as not to cause the animal physical injury, harm, or undue stress.
- (5) Veterinary care.
- (a) Any pet seller operating pursuant to this article shall designate an attending veterinarian, who shall provide veterinary care to the pet seller's animals, which shall include a written program of veterinary care and regular visits to the pet seller's premises or regular visits of the animals to the attending veterinarian's office. Such program of veterinary care shall include:
    - [1] The availability of appropriate facilities, personnel, equipment and services to comply with the provisions of this article;
    - [2] The use of methods determined to be appropriate by the attending veterinarian to prevent, control, and respond to diseases and injuries, and the availability of emergency, weekend, and holiday care;
    - [3] Daily observation of all animals to assess their health and well-being; provided however, that daily observation of animals may be accomplished by someone other than the attending veterinarian who has received the guidance identified in Subsection **A(5)(a)[4]**; and provided, further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior and well-being is conveyed to the attending veterinarian;
    - [4] Adequate guidance to personnel involved in the care of animals regarding handling and immobilization;
    - [5] Preprocedural and postprocedural care in accordance with established veterinary medical and nursing procedures.
  - (b) In the case of dog source breeders who sell or offer to sell nine or more dogs per year to the public that are born and raised on the dog source breeder's residential premises, there shall be annual veterinary examinations, at a minimum, for all intact adult dogs or cats on such dog source breeder's premises.
  - (c) All dogs and cats shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided as necessary and without undue delay. Each animal shall be observed each day by the pet seller or by a person working under the pet seller's supervision.
  - (d) Within five business days of the pet seller's receipt of any dog, but prior to the sale of the dog, the pet seller shall have a duly licensed veterinarian conduct an examination and tests appropriate to the age and breed to determine if the animal has any medical conditions apparent at the time of the examination that adversely affects its health. For animals 18 months of age or older, the examination shall include examination for any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from other animals in the isolation area required in Subsection **A(1)(h)** of this section.
  - (e) If an animal suffers from a congenital or hereditary condition, disease or illness which, in the professional opinion of the pet seller's veterinarian, requires euthanasia, the veterinarian shall humanely euthanize the animal without undue delay.
  - (f) In the event that an animal is returned to a pet seller due to a congenital or hereditary condition, illness, or disease requiring veterinary care, the pet seller shall, without undue delay, provide the animal with proper veterinary care.

- (6) Humane euthanasia. Humane euthanasia of an animal shall be carried out only by a veterinarian duly licensed in the State of New York and in accordance with § 374 of the New York State Agriculture and Markets Law.
- (7) Exercise requirements. Pet sellers shall develop, maintain, document and implement an appropriate plan to provide animals with the opportunity for daily exercise. In developing such plan, consideration should be given to providing positive physical contact with people that encourages exercise through play or other similar activities. Such written plan shall be approved by the attending veterinarian and shall be provided to the Department, or its duly designated agent, annually and in accordance with any regulations it may promulgate.
- (8) Fire and carbon monoxide safety.
  - (a) All pet sellers' premises must be equipped with a smoke alarm that operates properly and must have a means of fire suppression, such as fire extinguishers, on the premises, and be in good repair. Pet sellers, except those who maintain dogs or cats solely on residential premises, must also have an automatic means of fire suppression, such as a sprinkler system, on the premises, and it must be in good repair. The Commissioner may waive the requirement for an automatic fire suppression system upon adequate proof that it would be an undue hardship to the pet seller.
  - (b) All pet sellers' premises must also be equipped with a carbon monoxide detector that operates properly and is, at all times, in good repair.
- (9) Grooming. All dogs and cats shall be groomed regularly to prevent excessive matting of fur, overgrown toenails and flea and tick infestation, and to maintain the health of the animal in accordance with the needs of each breed.

## § 152-25. Consumer protection requirements.

### A. Sale of animals: unfit for purchase provisions.

- (1) If, within 14 business days following the sale of an animal subject to this article or receipt of the information statement required by Subsection **B** of this section, whichever occurred last, a licensed veterinarian of the consumer's choosing certifies such animal to be unfit for purchase due to illness, congenital malformation which adversely affects the health of the animal, or the presence of symptoms of a contagious or infectious disease, or if, within 180 calendar days following such sale or receipt, whichever occurred last, a licensed veterinarian of the consumer's choosing certifies such animal to be unfit for purchase due to a congenital malformation which adversely affects the health of the animal, the pet seller shall afford the consumer the right to choose one of the following options:
  - (a) The right to return the animal and receive a refund of the purchase price, including sales tax and reasonable veterinary costs directly related to the licensed veterinarian's certification that the animal is unfit for purchase pursuant to this section;
  - (b) The right to return the animal and to exchange it for another animal of the consumer's choice of the same purchase price, and reasonable veterinary costs directly related to the licensed veterinarian's certification that the first animal is unfit for purchase pursuant to this section; or
  - (c) The right to retain the animal and to receive reimbursement from the pet seller for veterinary services from a licensed veterinarian of the consumer's choosing, for the purpose of curing or attempting to cure the animal. The reasonable value of reimbursable services rendered to cure or attempt to cure the animal shall not exceed the purchase price of the animal. The value of such services is reasonably comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian. Such reimbursement shall not include the costs of initial veterinary

examination fees and diagnostic fees not directly related to the licensed veterinarian's certification that the animal is unfit for purchase pursuant to this section.

- (2) No pet seller shall knowingly sell an animal that has a diagnosed congenital condition or contagious disease that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.
- (3) The Commissioner shall promulgate regulations that prescribe a form for and the content of the certification that an animal is unfit for purchase, which shall be provided by an examining veterinarian to a consumer upon the examination of an animal which is subject to the provisions of this section. Such form shall include, but not be limited to: information which identifies the type of animal, the owner, the date and diagnosis of the animal, the treatment recommended, if any, and an estimate or the actual cost of such treatment. Such form shall also include the information statement prescribed by Subsection **B** of this section.
- (4) The Commissioner shall promulgate regulations that prescribe information which shall be provided in writing by the pet seller to the consumer upon the sale of the animal. Such information shall include, but not be limited to: a description, including breed of the animal, the date of purchase, the name, address and telephone number of the consumer, and the amount of the purchase. The pet seller shall certify such information by signing the document in which it is contained.
- (5) The refund and/or reimbursement required by Subsection **A(1)** of this section shall be made by the pet seller no later than 10 business days following receipt of a signed veterinary certification herein required. Such certification shall be presented to the pet seller no later than three business days following receipt thereof by the consumer.
- (6) Every pet seller who sells an animal to a consumer that requires vaccination against rabies pursuant to Public Health Law § 2141 shall provide the consumer at point of sale with a written notice provided by the Department summarizing rabies immunization requirements.
- (7) A veterinary finding of intestinal parasites shall not be grounds for declaring an animal unfit for sale unless the animal is clinically ill due to such condition. An animal may not be found unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer taking possession thereof.
- (8) In the event that a pet seller wishes to contest a demand for refund, exchange, or reimbursement made by a consumer pursuant to this section, such seller shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such pet seller. Upon such examination, if the consumer and the pet seller are unable to reach an agreement which constitutes one of the options set forth in Subsection **A(1)** of this section within 10 business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such refund, exchange or reimbursement.
- (9) Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

**B. Information statement to consumer.**

- (1) Every pet seller shall deliver to the consumer, at the time of sale, a written statement in a standardized form prescribed by the Commissioner containing the following information:
  - (a) For cats:

[1] The breeder's and, if applicable, broker's name and address, if known, or if not known, the source of the cat; if the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address and federal identification number;

- [2] The date of the cat's birth, unless unknown because of the source of the cat, the date the pet seller received the cat, and the location where the cat was received;
- [3] A record of any immunizations and worming treatments administered to the cat while the cat was in the possession of the pet seller, as of the time of sale, including dates of administration and the types of vaccines or worming treatments administered;
- [4] A record of any known disease, sickness or congenital condition that adversely affects the health of the cat at the time of sale;
- [5] A record of any veterinary treatment or medication received by the cat while in the possession of the pet seller and either of the following:
  - [a] A statement signed by the pet seller at the time of sale indicating that the cat has no known disease or illness and that the cat has no known congenital or hereditary condition that adversely affects the health of the cat at the time of sale; or
  - [b] A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the cat at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the cat, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or nonelective surgical procedures and is not likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the cat clinically ill or is likely to make the cat clinically ill. The statement should be valid for 14 business days following examination of the cat by the veterinarian.

(b) For dogs:

- [1] The breeder's and, if applicable, broker's name and address, if known, and if not known, the source of the dog; if the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address and federal identification number;
- [2] The date of the dog's birth and the date and location where the pet seller received the dog. If the dog is not advertised or sold as a purebred, registered or capable of registration, the date of birth may be approximated if not known by the pet seller;
- [3] The breed, sex, color and identifying marks at the time of sale; if the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo or collar number for that animal; if the breed is unknown or mixed, the record shall so indicate; if the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known;
- [4] A record of any inoculations and worming treatments administered to the dog while the dog was in the possession of the pet seller, as of the time of sale, including dates of administration and the type of vaccines and/or worming treatments administered;
- [5] A record of any veterinary treatment or medication received by the dog while in the possession of the pet seller and either of the following:
  - [a] A statement, signed by the pet seller at the time of sale indicating that the dog has no known disease or illness and that the dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of sale; or
  - [b] A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the dog at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the dog,

recommends necessary treatment, if any, and verifies that the condition, disease, or illness does not require hospitalization or nonelective surgical procedures and is not likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for 14 business days following examination of the dog by the veterinarian.

[6] Notification that dogs residing in New York State must be licensed, and that a license may be obtained from the municipality in which the consumer resides.

- (2) A disclosure made pursuant to Subsection **C(2)(a)** or **(b)** of this section shall be signed by both the pet seller certifying the accuracy of the statement and the consumer acknowledging receipt of the statement. At the time of sale, each pet seller shall provide the consumer with information, provided by the Department, on the value of spaying and neutering of dogs and cats.
- (3) Every pet seller shall post conspicuously, within close proximity to the primary enclosures of dogs and cats offered for sale, a notice containing the following language in one-hundred-point type:

"Information on the source of these dogs and cats and the veterinary treatment received by these dogs and cats is available for review by prospective consumers."

C. Animal pedigree registration.

- (1) Representation regarding animal's pedigree registration. Any pet seller who states, promises, or represents that an animal is registered or is capable of registration with an animal pedigree registry organization shall provide the consumer with the appropriate documents necessary for such registration within 120 days following sale of the animal. If the consumer notifies the pet seller in writing on or before such time that he or she has not received the appropriate registration documents, the pet seller shall have, in addition to the 120 days, 60 more days to provide the appropriate documents.
  - (a) If a pet seller fails to provide documents as required under Subsection **C(1)** of this section, the consumer, upon written notice to the pet seller, may keep the animal and receive a partial refund of 75% of the purchase price, in which event the pet seller shall not be required to provide registration documents. Acceptance by the consumer of appropriate registration documents, whether or not within the time periods set forth in Subsection **(1)** of this section, shall be deemed a waiver of the right to a partial refund pursuant to this subsection.
- (2) Registration notice; disclosure statement.
  - (a) A pet seller that sells animals registered or capable of registration with a pedigree registry shall post conspicuously within close proximity to those animals a notice that states: "Pedigree registration means that the particular registry maintains information on the parentage and identity of the animal."
  - (b) For every animal sold by a pet seller with the representation that the animal is registered or is capable of registration with an animal pedigree registry organization, the following fully completed disclosure shall be made by the pet seller in writing on a sheet separate from any other statement in substantially the following form:

"Disclosure of animal pedigree registration: Description of animal; The animal you are purchasing is registered/qualified to be registered (circle one) with the (enter name of registry). Registration means that (enter name of registry) maintains information regarding parentage and identity of this animal. Persons buying animals represented by a pet seller as being qualified to be registered are entitled to papers necessary to affect such registration within 120 days of purchase. Failure to provide such papers entitles

the consumer to remedies under law. However, if the consumer notifies the pet seller within the one-hundred-twenty-day period that he or she has not received such papers, the pet seller shall have an additional 60 days commencing at the end of the one-hundred-twenty-day period in which to provide the documents. Acknowledged: Date: Consumer's signature."

- (c) The disclosure shall be signed and dated by the consumer, acknowledging receipt of a copy of the statement. The pet seller shall retain a copy of the signed disclosure.

## § 152-26. Records of purchase and sale.

- A. Each pet seller shall keep and maintain records for each dog or cat purchased, acquired, held, sold or otherwise disposed of. The records shall include the following:
- (1) The name and address of the person from whom each dog or cat was acquired; if the person from whom the animal was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number; if the person is a pet dealer licensed by New York State pursuant to Article 26-a of the Agriculture and Markets Law, the dealer's name, address and state dealer identification number; if the person is a pet seller licensed by this Act, the pet seller's name, address and permit number; if the person is a breeder, the breeder's name, address, and, if applicable, USDA license number; and
  - (2) In the case of cats, if a cat is placed in the custody or possession of a pet seller and the source of origin is unknown, the pet seller shall state that the source of origin is unknown, accompanied by the date, time, and location of receipt; and
  - (3) The original source of the animal, if different than the person recorded in Subsection **A** of this section; and
  - (4) The date each dog or cat was acquired; and
  - (5) A description of each animal, showing age, color, markings, sex, breed, and any inoculation, worming, or other veterinary treatment or medication information available. Records shall also include any other significant identification, if known, for each animal, including official tag number, tattoo or (implant) microchip; and
  - (6) The name and address of the person to whom the animal is sold, given or bartered or to whom it is otherwise transferred or delivered. The records shall indicate the date and method of disposition; and
  - (7) The pet seller's Ulster County permit number.
- B. Notwithstanding the provisions of Subsection **A** of this section, no pet seller shall knowingly buy, sell, exhibit, transport or offer for sale, exhibition or transportation any stolen dog or cat. No pet seller shall knowingly sell any dog or cat younger than eight weeks of age.
- C. Prior to the sale, exchange, or other transfer of ownership of a dog or cat, a pet seller is required to examine the Ulster County Animal Abuse Registry to confirm that the potential owner is not a registered animal abuser. If a pet seller determines that an individual is a registered animal abuser, the pet seller shall not sell, exchange or otherwise transfer ownership of a dog or cat to such individual.
- D. Records for each animal shall be maintained for a period of two years from the date of sale or transfer, whichever occurs later. During normal business hours, the records shall be made available to persons authorized by law to enforce the provisions of this article.

## § 152-27. Certification by dog dealers and source breeders required.

- A. It shall be unlawful for any pet seller in Ulster County to knowingly import, offer for sale, sell or barter any dog from a dog source breeder that does not comply with the standards of care enumerated in this article.
- B. Dog dealers and dog source breeders who supply dogs directly to pet sellers shall provide a written certification to such pet sellers that the dogs it provides to them have been obtained from dog source breeders where they have been raised and maintained in compliance with this article.
- C. The Commissioner shall establish a written form for the certification required by this section, which will, at a minimum, include the name, legal address, contact information for the dog dealer, if applicable, and dog source breeder, along with the requirement for a sworn statement attesting that the dog source breeder is in compliance with the standards prescribed in this article.
- D. Pet sellers shall provide consumers with a copy of this certification at the point of sale and shall file the written certification required by this section with the Commissioner on a semiannual basis and in accordance with any rules promulgated by the Commissioner.

## § 152-28. Minimum standards of care for dog source breeders.

- A. Food and water.
  - (1) All dogs must be provided with adequate food that is clean and free from contaminants at intervals not to exceed 12 hours or at least twice in any twenty-four-hour period unless directed otherwise by a duly licensed veterinarian.
  - (2) All dogs must be provided with potable water at all times, unless directed otherwise in writing by a duly licensed veterinarian. Such special instructions concerning food or water shall be kept in the dog source breeder's records for the dog.
- B. Housing.
  - (1) Except where dogs are permitted to roam freely inside the dog source breeder's residential premises, dogs shall be kept in primary enclosures that are designed and constructed to be structurally sound and that are kept in good repair.
  - (2) Primary enclosures for dogs shall:
    - (a) Have no sharp points or edges that could injure dogs;
    - (b) Be maintained in a manner to protect dogs from injury;
    - (c) If not fully enclosed on the top, be of a height sufficient to prevent the dog from climbing over the walls of the enclosure;
    - (d) Keep animals from entering the enclosure;
    - (e) Enable dogs to remain dry and clean;
    - (f) Provide shelter and protection from temperatures and weather conditions that may be uncomfortable or hazardous to any dog;
    - (g) Provide sufficient space to shelter all dogs housed in the primary enclosure at one time;
    - (h) Provide potable water at all times, unless otherwise directed by a veterinarian in writing that shall be kept in the dog source breeder's records;

- (i) Enable all surfaces in contact with dogs to be readily cleaned and sanitized in compliance with Subsection **D(4)** of this section.

#### C. Space.

- (1) Primary enclosures shall provide enough space to allow each dog to turn about freely and to stand, sit, and lie in a normal position. All dogs in the enclosure must be able to lie down while fully extended without the dog's head, legs, face or feet touching any side of the enclosure or another dog. The interior height of a primary enclosure shall be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.
- (2) All dogs over 12 weeks of age housed in primary enclosures must be provided with a minimum amount of floor space in the primary enclosure, calculated as follows: Find the mathematical square of the sum of the length of dog in inches, measured in a straight line from the tip of its nose to the base of its tail plus six inches, then divide the product by 144, then multiply by two. The calculation is: (Length of dog in inches +6) equals required floor space in square inches. Required floor space in inches/144 x 2 = required floor space in square feet.) For a second dog placed in the primary enclosure, the minimum floor space shall be doubled. The floor space shall be calculated using the longest dog. For each dog above two, the minimum floor space shall be multiplied by 1.5 per additional dog.
- (3) For dogs over 12 weeks of age, primary enclosures must be placed no higher than 30 inches above the floor of the housing facility and may not be placed over or stacked on top of another cage or primary enclosure.
- (4) For dogs 12 weeks of age or younger, primary enclosures shall not be stacked more than two rows high, and the bottom of the uppermost primary enclosure may not be more than 4 1/2 feet off the housing facility floor. Where the primary enclosures are stacked, a tray or other device that will prevent urine, feces, and other debris from passing into or being discharged into the underlying primary enclosure shall be placed under the primary enclosure. The trap or other device must be impermeable to water and capable of being easily sanitized.
- (5) All housing facilities shall be equipped with a smoke alarm and shall have a means of fire suppression, such as fire extinguishers or a sprinkler system, on premises.

#### D. Sanitation.

- (1) Excreta, feces, hair, dirt, debris and food waste must be removed from primary enclosures at least daily, or more often if necessary, to prevent an accumulation of excreta, feces, hair, dirt, debris and food waste to prevent soiling of dogs contained in the primary enclosures and to reduce the risk of disease, insects, pests and odors.
- (2) Used primary enclosures and food and water receptacles for dogs must be cleaned and sanitized in accordance with Subsection **D(4)** of this section before they can be used to house, feed or water another dog or group of dogs.
- (3) Used primary enclosures and food and water receptacles must be sanitized at least once every two weeks using one of the methods prescribed in Subsection **D(4)** of this section and more often, if necessary, to prevent an accumulation of excreta, feces, hair, dirt, debris, food, waste and other disease hazards.
- (4) Hard surfaces of primary enclosures and food and water receptacles must be sanitized using one of the following methods:
  - (a) Live steam under pressure,
  - (b) Washing with water with a temperature of at least 180° F. and with soap or detergent, as with a mechanical cage washer; or
  - (c) Washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfection product that accomplishes the same

purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste so as to remove all organic material and mineral buildup and to provide sanitization followed by a clean water rinse.

- (5) All dogs must be removed from the primary enclosure when it is being sanitized in accordance with the provisions of this subdivision.
- (6) Primary enclosures, exercise areas and housing facilities using material that cannot be sanitized using methods delineated in Subsection **D(4)** of this section must be made sanitary by removing contaminated material as necessary to prevent odors, diseases, pests, insects and vermin infestation.
- (7) Premises where primary enclosures are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect dogs from injury, to facilitate healthy husbandry practices, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products and discarded matter. Weeds, grass and bushes must be controlled so as to facilitate cleaning of the premises and pest control and to protect the health and well-being of the dogs.
- (8) An effective program for the control of insects or pests, and external parasites affecting dogs, must be established and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in housing facilities.
- (9) The floors and walls of primary enclosures must be impervious to moisture. The ceiling of indoor housing facilities must be impervious to moisture or be replaceable. "Impervious surfaces" may include concrete, tiles, wood that is sealed and other materials that do not permit absorption of fluids, allow thorough and repeated cleaning and disinfection without deteriorating or retaining odors, and do not violate any other provision contained within this section.

#### E. Flooring.

- (1) Flooring in all primary enclosures must be constructed in a manner that protects the dogs' feet and legs from injury. The floor must not permit any part of the foot of a dog housed in the enclosure to pass through any opening.
- (2) For dogs over 12 weeks of age, the floor of the primary enclosure must be strong enough so that it does not sag or bend between structural supports and so that it cannot be destroyed through digging or chewing by the dogs housed in the primary enclosure. The floor shall not permit the feet of any dog housed in the primary enclosure to pass through any opening and shall not be made of metal strand, either coated or uncoated. It must allow for moderate drainage of fluids and it must not be sloped more than 0.25 inch per foot.
- (3) Flooring constructed of slats shall be acceptable, provided that all of the following conditions are met:
  - (a) The flooring is flat;
  - (b) Spaces between slats run the length or width of the floor, but not both;
  - (c) Slats are no less than 3.5 inches in width;
  - (d) The floor has spaces between the slats that are no more than 0.5 inch in width; and
  - (e) Each slat is level with the slat next to it within a single primary enclosure.

#### F. Co-housing; bitches in heat; nursing puppies.

- (1) All dogs housed in the same primary enclosure must be compatible as determined by observation. Not more than six adult dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature

males, except for breeding. Bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under 12 weeks of age may not be housed in the same primary enclosure with adult dogs, other than the dam or foster dam. Dogs displaying vicious or aggressive behavior toward other dogs must be housed separately.

- (2) Each bitch with nursing puppies shall be provided with an additional amount of floor space based on her breed and behavioral characteristics and in accordance 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 5% of the minimum requirement for the bitch, the amount of floor space must be approved by the attending veterinarian and shall be kept in the dog source breeder's records.

#### G. Ventilation and lighting.

- (1) Housing facilities for dogs must be sufficiently heated and cooled to protect dogs from temperature or humidity extremes and to provide for their health and well-being. If dogs are present, the ambient temperature in the facility must not fall below 50° F. or rise above 85° F.
- (2) Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, and ammonia levels and to prevent moisture condensation. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs housed therein.
- (3) Housing facilities for dogs must be lighted well enough to permit routine inspection and cleaning of the facility and observation of the dogs. Animal areas must be provided with a regular diurnal light cycle of either natural or artificial light. Lighting must be uniformly diffused throughout housing facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning and observation of animals at any time and for the well-being of the animals. Primary enclosures must be placed so as to protect dogs from excessive light.

#### H. Veterinary care and records.

- (1) The dog source breeder shall establish a veterinarian/client-patient relationship.
- (2) The dog source breeder shall establish a written program of veterinary care which shall include a physical examination and vaccination schedule; a protocol for disease control and prevention; pest and parasite control; nutrition; and euthanasia. A copy of the program shall be kept in the dog source breeder's records.
- (3) Dogs shall be examined by a veterinarian at least once every six months.
- (4) For each dog harbored by a dog source breeder, a permanent record shall be kept and shall contain all of the following information:
  - (a) The date of birth of the dog;
  - (b) The date of the last rabies vaccination of the dog; and
  - (c) The date of the dog's last veterinary check.
- (5) The dog source breeder shall keep all veterinary records for two years after the dog has left the care of the facility.
- (6) Notwithstanding any law, a dog may not be euthanized except by a licensed veterinarian.

#### I. Exercise (for dogs over 12 weeks of age).

- (1) Each primary enclosure housing a dog over 12 weeks of age shall have an entryway that allows the dog unfettered clearance from the enclosure into an outdoor exercise area.

- (2) The exercise area must be at least twice the size of each dog's primary enclosure and must have adequate means to prevent dogs from escaping.
- (3) Exercise area fencing must be in good repair and be free of rust, jagged edges or other defects that could cause injury to the dogs.
- (4) The exercise area must be cleaned in accordance with Subsection **D(6)** of this section.
- (5) Dogs must not be placed in the exercise area in a manner that would cause injury to the dog.
- (6) Nursing bitches and their puppies shall be exercised separately from other dogs.
- (7) The exercise area shall be on ground level, and the ground of the area must be solid and maintainable. Surfaces such as gravel, packed earth and grass which are solid and maintainable may be utilized.
- (8) Forced exercise methods or devices such as swimming, treadmills or carousel type devices shall not meet the exercise requirements of this subsection and are prohibited.
- (9) If, in the opinion of a licensed veterinarian, it is inappropriate for a dog to exercise because of its health, condition or well-being, this section shall not apply to that dog. Such a determination must, however, be documented in writing by the veterinarian and shall be revisited by the attending veterinarian at least once every 30 days.

## § 152-29. Residential breeders.

### A. Residential breeder minimum standards of care.

- (1) Animals shall be provided, except when there are instructions from a duly licensed veterinarian to withhold food for medical reasons, with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.
- (2) Water shall be supplied to animals in a sanitary manner sufficient for each animal's needs, except when there are instructions from a duly licensed veterinarian to withhold water for medical reasons.
- (3) In the event that a residential breeder has a pregnant or nursing dog on his or her premises, the residential breeder shall provide a whelping area or box for such dog.
- (4) All animals shall be vaccinated as required by state or local law. Veterinary care appropriate to the breed shall be provided without undue delay when necessary. Each animal shall be observed each day by the residential breeder or by a person working under the residential breeder's supervision.
- (5) No residential breeder shall knowingly sell any animal that has a diagnosed congenital condition or contagious disease that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.

### B. Records of sale by residential breeders.

- (1) Each residential breeder shall keep and maintain records for each animal sold. The records shall include the name and address of the person to whom any animal is sold and the date of sale.
- (2) Records of sale for each animal shall be maintained for a period of two years from the date of sale.

### C. Inspection of residential breeders. Inspections of residential breeders shall be made whenever, in the discretion of the Commissioner or his or her authorized agents, a complaint warrants such investigation. Any person conducting an inspection of a residential breeder or responding to a

complaint concerning a residential breeder shall be a County employee specifically trained in the proper care of animals and in the investigation and identification of cruelty to animals.

## § 152-30. Notice to consumers.

- A. Every pet seller or residential breeder who sells an animal to a consumer shall post a notice clearly visible to the consumer and provide the consumer at the time of sale with a written notice, printed or typed, setting forth the rights provided under this article. Such notices shall be prescribed by the Commissioner, but the written notice may be contained in a written contract, an animal history certificate, or separate document, provided such notices are in ten-point boldface type.
- B. No pet seller or residential breeder shall restrict or diminish, by contract or otherwise, the rights provided under this article.

## § 152-31. Violations.

- A. Violation of any provision of this article is a civil offense for which a fine of not less than \$150 and not more than \$500 for each violation may be imposed.
- B. In addition to the penalties enumerated in this section, whenever there is a violation of the provisions of § 152-25 (Consumer protection requirements) or § 152-26 (Records of purchase and sale) of this article, application may be made by the Commissioner or his designee to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated these provisions, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In such a proceeding, the court may make allowances to the Commissioner as provided in Civil Practice Law and Rules § 8303(a)(6) and direct restitution.

## § 152-32. Effect on other laws.

Nothing in this article shall be construed to limit or restrict the police, agents, or officers of Societies for the Prevention of Cruelty to Animals from enforcing Article 26 of the Agriculture and Markets Law or any other law relating to the humane treatment of or cruelty to animals.

## § 152-33. Severability.

If any clause, sentence, paragraph, section, subdivision or other part of this article or its applications shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this article, which shall remain in full force and effect except as limited by such order or judgment.