

Town of Berkshire Dog Control Local Law

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Section I: Purpose and Intent:

- A. The Town of Berkshire declares its intent to regulate running at large and other behavior of dogs in a manner that fully complies with Article 7 of the New York State Agriculture and Markets Laws (NYS Ag and Markets Law). This local law is intended to protect the health, safety and well-being of persons, property, and other animals by outlining the responsibilities of dog ownership and regulating and controlling the activities of dogs. Enforcement actions to be taken against owners of dogs found to be in violation of this local law are fully described herein.
- B. Regulating animals other than dogs is outside the scope of this local law.
- C. This local law includes 2010 amendments to Article 7 Chapter 59, Part T which were effective January 1, 2011.

Section II: Definitions:

- A. "Accusatory Instrument" is documentation used to provide information and describe charges of violations, either as a complaint or enforcement, of any section of this law.
- B. "Animal Population Control Program (APCP) is a state-mandated program to encourage adoption of unwanted dogs and to provide low-cost spay and neuter procedures at shelters to help reduce over population in general and especially in shelters.
- C. "Assistance Dog" includes, but is not limited to guide dog, hearing dog, working search dogs, police work dogs or therapy dogs.
- D. "Companion Animal or Pet" means any domestic animal normally maintained in or near a household.
- E. "Dog" means domestic member of the canine family (*canis familiaris*) typically housed as pets or used for hunting.
- F. "Dog Control Officer" (DCO) is the person authorized by the Town Board to enforce this local law and other relevant provisions of the NYS Ag and Markets Law.
- G. "Dog in Heat" refers to a female dog that is receptive to male presence for breeding.
- H. "Dog License" is an identification tag issued by the Town Clerk when a dog is registered which contains an identification number that can be used to recover dog and owner information and is renewable annually for the life of the dog.
- I. "Enumeration" means a census or count of dogs used to insure licensing and rabies vaccinations are attained.
- J. "Euthanize" means to bring about death by a humane method.
- K. "Harbor" means to provide food, water or shelter to any dog.
- L. "Noise Disturbance" is the making of any sound which is audible beyond a property line or the vertical and horizontal boundaries of a multiple dwelling unit for 15 minutes in any one-hour interval, which sound disturbs a reasonable person of normal sensitivities.
- M. "Owner", as it pertains to this law, means the person who last licensed the dog, or in the absence of a license, any person(s) or association who has custody or control of, harbors, or is otherwise responsible for any dog which is kept, brought or comes within the Town. Persons harboring a dog for a period of one (1) week or more prior to the filing of any complaint charging a violation of this Local Law shall be deemed to be the owner. In the event any dog found to be in violation of this local law shall be owned by a minor (under 18 years of age), the head of the household in which said minor resides shall be deemed to have custody and control

- of said dog and shall be responsible for any acts of said dog and violation of this local law.
- N. "Purebred License" is a group license for owners with purebred dogs that are recognized by a registry association. This license is issued in lieu of individual dog licenses. Owners must provide proof of purebred registration for each dog harbored on their premises.
 - O. "Recognized Registry Association" is any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the Commissioner of NYS Agriculture and Markets.
 - P. "Running At Large" means any dog that is not accompanied and controlled by an adult or responsible person and is unleashed and roaming freely on property open to the public or private property not owned or leased by the owner of the dog unless permission for such presence has been obtained.
 - Q. "Seize" is the act of taking possession of or capturing and controlling a dog.

Section III: Provisions and Requirements:

A. Owner Requirements

1. Dog License, New and Renewal:

- a. Annual License Fees are set in the town fee schedule by resolution by the Berkshire Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fee consists of a cost support license fee, a state-mandated differential for altered and unaltered dogs, and a state-mandated fee for the Animal Population Control Program. Fees vary by type or category as follows:
 - i. Regular license for neutered male or spayed female (altered).
 - ii. Regular license for unneutered male or unsprayed female (unaltered).
 - iii. Purebred License - issued in lots of 1-10, 11-25 or more than 25.
 - iv. Assistance Dogs to be registered but are exempt from local fees
 - v. Owners over age 65 register one dog as in (i) or (ii) but local fee is waived.
- b. All dogs four (4) months or older are required to be licensed and vaccinated for rabies.
- c. Application for a dog license shall be made to the Berkshire Town Clerk. The application shall be accompanied by the license fee (see Town Fee Schedule) and proof of current rabies vaccination, or in lieu thereof, a statement, certified by a licensed veterinarian verifying that due to old age or other reason, the life of the dog would be endangered by the administration of the vaccine.
- d. Provide proof of spaying or neutering if appropriate and for purebred licenses provide proof of registration with recognized registry association.
- e. License renewals are sent to dog owners by the Town Clerk to remind them that a dog must be licensed by the date set forth on the renewal form.
- f. Any dog owner who fails to renew a license, or fails to acquire a license, will be contacted by the Dog Control Officer (DCO). If the owner fails to comply within ten (10) days, an appearance ticket may be issued to appear before the Town Court Justice. Fines may be imposed as set forth in Section IX of this law.
- g. The Dog License issued by the Town Clerk must be attached to a collar and worn by the dog at all times.
- h. A Dog License can never be transferred from one dog to another dog or from one

owner to another owner. Upon change of ownership the new owner will be required to immediately license the dog.

- i. Should a dog license be lost, a replacement must be obtained at the owner's expense (see Town Fee Schedule).

2. Change in Ownership, Death, Lost or Stolen:

- a. Owners must notify the Town Clerk within ten (10) days when they no longer own or harbor a dog that was licensed. This requirement includes a dog that has died.
- b. Owners must also notify the Town Clerk within ten (10) days of a dog that is lost or stolen, and then again if found or returned.

3. Treatment of Dogs: NYS Ag and Markets Law also covers acts that may be criminal offenses such as:

- a. Dogs must never be used for animal fighting.
- b. Dogs must not be neglected or deprived of food and water.
- c. Dogs must not be intentionally injured or killed.
- d. Appropriate shelter must be provided for dogs housed outdoors.
- e. Dogs must not be confined inside motor vehicles under extreme temperatures.
- f. Dogs must not be abandoned or "dropped off".

B. Dog Control Requirements: These behaviors are prohibited and the owner is required to prevent a dog from:

1. Running at large.
2. Causing damage to property open to the public, or private property not owned or leased by the owner of the dog unless permission for such presence has been obtained, specifically:
 - a. defecating or urinating upon such premises,
 - b. uprooting, digging or otherwise damaging vegetables, lawns, flower beds, or gardens upon such premises.
3. Chasing, jumping upon or otherwise harassing any person on property open to the public, or private property not owned or leased by the owner of the dog, in such a manner as to reasonably cause intimidation, reasonable apprehension, or fear of bodily harm or injury.
4. Biting a person other than the owner or biting a companion animal or farm animal not belonging to the owner.
5. Chasing, running beside, or barking at motor vehicles or bicycles on property open to the public, or private property not owned or leased by the owner of the dog.
6. Making sounds that create a noise disturbance (howling, barking, crying or whining).
7. Breaching confinement, by a female dog in heat, of a protected enclosure on the premises of the owner or person harboring the dog. A dog in heat must be housed in a protected

enclosure at all times,

8. Killing or injuring any domestic animal or companion animal or pet.

Section IV: Exclusions

- A. License fees will be waived for assistance dogs, but registration and proof of rabies vaccination are still required.
- B. A portion of the license fee is waived for owners over the age of 65 for one dog only (see Town Fee Schedule).
- C. A dog actively engaged in supervised hunting, or training for hunting on private land with the permission of the owner of the land or on public lands is not considered to be running at large.
- D. A dog participating in a show need not wear a dog license tag during exhibition.

Section V: Administration and Enforcement

A. Enforcement Authority:

1. This local law shall be enforced by the DCO when acting pursuant to his or her special duties, or by any other peace officer, police officer, or agencies authorized to enforce provisions of this local law and provisions of the NYS Ag and Markets Law. The DCO shall have the power to issue appearance tickets pursuant to Criminal Procedure Law section 150.20 and shall have all powers, duties and responsibilities set forth in the NYS Ag and Markets Law section 114.
2. The Town Clerk is given authority to collect fees as defined in this law and the town fee schedule.
3. The DCO can perform a dog enumeration (census) as authorized by the Berkshire Town Board at any time. Procedures and fees will be determined by the Town Board and the DCO prior to commencement of an enumeration. Public notification will be made by newspaper, e-mail, or other means in advance of the process so residents know that the enumeration is being conducted.
4. Pursuant to NYS Ag and Markets Law, Section 110, (4)(d), and this Local Law, the Town Clerk shall collect an additional five dollars (\$5) for dogs identified as unlicensed during a dog enumeration. This fee is to be collected at the time of licensing and is in addition to the regular license fee.
5. No action shall be initiated against the DCO or any other agent or officer of the Town, in connection with the enforcement of this Local Law for the purposes of recovering the costs or expenses of any dog impounded, seized, destroyed, injured or killed.

B. Seizure, Impoundment, Redemption and Adoption:

1. Any dog found in violation of the provisions of this local law may be seized. Every attempt will be made to use a degree of force necessary to seize the dog but prevent harm to the dog.
 2. When a dog is seized, the DCO will attempt to identify the owner by using the Dog License number or by canvassing the area where the dog was seized.
 - a. If owner is identified, the DCO will deliver the dog to the owner and assess why the dog was in violation of the local law. If the dog appears to have escaped confinement and there have been no prior violations of this local law by the owner, a verbal warning will be given. If the owner has previously violated or appears to have intentionally violated this local law, or is uncooperative, then appropriate accusatory instruments may be filed.
 - b. If the owner is not identified, the DCO will turn the dog over to a humane center.
 3. Every dog seized shall be properly cared for, sheltered, fed and watered by a humane center for the redemption period per NYS Ag and Markets Law.
 4. Seized dogs may be redeemed by the owner by producing proof of licensing, owner identification, and payment of seizure, impoundment, and veterinary fees.
 5. Any dog seized due to biting a person or animal must be held in quarantine for a period of ten (10) days, either at the owner's home or at a humane center, so that rabies status or declaration of dangerous dog (as defined in NYS Ag and Markets Law) can be determined.
 6. Any dog unredeemed at the expiration of the appropriate redemption period may be:
 - a. Available for adoption by the general public. The humane center will insure that all vaccination and licensing requirements are met at the expense of the prospective owner.
 - b. If not adopted, euthanized pursuant to the provisions of the NYS Ag and Markets Law.
 7. If the owner of any unredeemed dog is known, such owner shall be required to pay the seizure and impoundment fees whether or not such owner chooses to redeem the dog.
- C. The following services are not provided by the Town or covered under the jurisdiction of the DCO:
1. The town does not provide a service for residents who wish to voluntarily surrender a dog. Owners are responsible for finding homes for unwanted dogs or contacting a humane center.
 2. This local law does not pertain to domestic animals other than dogs.
 3. Wild animal control is not the responsibility of the Town or DCO.

Section VI: Enforcement Procedure

- A. The DCO, or any other person who observes a violation of this local law may file an accusatory instrument (complaint/observance), under oath, specifying the nature of the violation, the date thereof, a description of the dog, the location of the violation and the name and residence, if known, of the owner of the dog. The DCO will assist any person in preparing and filing this information and will enforce compliance with this Local Law.
- B. Establishment of the fact that a dog has committed any of the acts prohibited by this local law shall be presumptive evidence against the owner or person harboring such dog.
- C. Upon identifying a violation of this local law, the DCO shall issue an appearance ticket, by personal service or by certified mail, upon the owner of the animal found to be in violation. This notice will provide the name, address, and description of the violation.

Section VII: Reference

- A. Local Law # 1 of 1999 is hereby repealed, as well as any prior inconsistent local laws, ordinance or regulations.
- B. Agriculture and Markets Law of the State of New York, Articles 7 and 26

Section VIII: Severability/Invalid Segments

Should any section or provision of this local law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this local law as a whole or any part thereof other than the part declared to be invalid.

Section IX: Penalties

Any person convicted of violating provision of this Local Law shall be guilty of a violation, and shall be liable to a penalty of not more than fifty dollars (\$50) for each violation. Any person so convicted as a second offense shall be liable to a penalty of not less than fifty dollars (\$50) and not more than one hundred dollars (\$100), and for a conviction as a third offense shall be liable to a penalty of not less than one hundred dollars (\$100) and not more than two hundred dollars (\$200).

Section X: Effective Date, Ratification

- A. This Local Law shall take effect immediately upon filing by the Secretary of State.
- B. All dog licenses issued by the Town Clerk since January 1, 2011 to the effective date of this local law are hereby ratified and confirmed.

Filed by NY DOS on October 25, 2011