

Town of Berkshire Dog Control Local Law

Table of Contents:

Section I	Purpose and Intent	Page 2
Section II	Definitions	Page 2
Section III	Provisions and Requirements	Page 3
Section IV	Exclusions	Page 5
Section V	Administration and Enforcement	Page 5
Section VI	Enforcement Procedure	Page 6
Section VII	Reference	Page 7
Section VIII	Severability/Invalid Segments	Page 7
Section IX	Penalties	Page 7
Section X	Effective Date, Ratification	Page 7

Section I: Purpose and Intent

- A. Be it enacted by the Town Board of The Town of Berkshire to declare its intent to protect the welfare of the citizens by regulating dog ownership and dog behavior.
- B. 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 (AGMAR). 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.

Section II: Definitions

- A. “Accusatory Instrument” is documentation used to provide information and describe charges of violations, either as complaint or enforcement, in any section of the law.
- B. “AGMAR”, as used in this document, refers to the New York State Agriculture and Markets Law Article 7.
- C. “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.
- D. “Assistance or Service Dog” includes, but is not limited to, guide dog, hearing dog, working search dog, police work dog, war dog, detection dog, or therapy dog.
- E. “Companion Animal or Pet” means any domestic animal normally maintained in or near a household.
- F. “Dangerous Dog,” as defined by AGMAR, is “any dog that without justification, attacks a person, companion animal, farm animal or domestic animal and causes physical injury or death, or behaves in a manner that a ‘reasonable person’ would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals, or without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.”
- G. “Dog” means domestic member of the canine family (*canis familiaris*), typically housed as pets or used for hunting.
- H. “Dog Control Officer” (DCO) is the person authorized by the Town Board to enforce this local law and other relevant provisions of the AGMAR Law.
- I. “Dog in Heat” refers to a female dog that is receptive to male presence for breeding.
- J. “Dog License” is the application process completed to license the dog and obtain an identification tag.
- K. “Domestic Animal,” as defined by AGMAR, means “any domesticated animal (sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer) which is raised under license from the department of environmental conservation, (llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird) which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.”

- L. "Enumeration" means a census or count of dogs used to ensure licensing and rabies vaccinations are attained.
- M. "Farm Animal," as defined by AGMAR, means "any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals (as defined in section 11-1907 of the environmental conservation law), which are raised for commercial or subsistence purposes."
- N. "Harbor" means to provide food, water or shelter to any dog.
- O. "Identification Tag" means a tag issued by the Town Clerk when a dog is licensed which contains an identification number that can be used to identify the dog and the owner information.
- P. "Neutered" is the removal of the testicles in male animal.
- Q. "Owner of Record" means the person in whose name any dog was last licensed, unless a license is issued on application to a person under eighteen (18) years of age, in which case, the owner of record shall be deemed to be the parent or guardian of such person. -
- R. "Redeemed" as used in this document means to gain or regain possession of a lost or seized animal.
- S. "Running at Large" means any unleashed, unsupervised dog on public or private property without permission.
- T. "Seize" is the act of taking possession of or capturing and controlling a dog.
- U. "Spayed" is the sterilization of a female animal by removing the ovaries.

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. Assistance Dogs to be registered but are exempt from local fees.
 - iv. 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. Proof of spaying or neutering will be provided if appropriate.
 - 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 fifteen (15) 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. If a dog was licensed in a different municipality, and the dog is harbored in the Town of Berkshire for a period of thirty (30) days or more, a new license is required by applying to the Town Clerk.
 - h. The identification tag issued by the Town Clerk must be attached to a collar and worn by the dog at all times.
 - i. A dog identification tag 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.
 - j. Should a dog identification tag 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 notify the DCO within five (5) days of a dog that is lost or stolen, and then again if found or returned.
3. Treatment of Dogs: AGMAR Law also covers acts that may be criminal offenses. Appropriate law enforcement official should be notified if a dog is discovered in any of the following situations:
- a. Used for animal fighting.
 - b. Neglected or deprived of food and water.
 - c. Intentionally injured or killed.
 - d. Housed in inappropriate outdoor shelter.
 - e. Confined inside motor vehicles under extreme temperatures.
 - f. Abandoned or "dropped off."
- B. Dog Control Requirements: These behaviors are prohibited, and the owner is required to prevent a dog from the following:
- 1. Being at large or running at large.
 - 2. Causing damage or destruction to land on open public or privately owned property by defecating, urinating, or digging.
 - 3. Chasing, jumping upon, or otherwise harassing any person in such a manner as to reasonably cause intimidation or fear. Failure to prevent such action will be grounds for filing of a dangerous dog complaint.

4. Biting, injuring, or killing any individual, companion animal, domesticated animal or farm animal. Failure to prevent such actions will be grounds for the filing of a dangerous dog complaint.
5. Chasing, jumping upon, or running alongside of persons, motor vehicles, bicycles, horses, or carriages that are on a public highway, public walkway, or private property not belonging to the owner of the dog.
6. Engaging in habitual and sustained loud howling, barking, yelping, crying, whining or conducting itself in such a manner so as to be considered unreasonable and habitually annoying by a reasonable person.
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.

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. No dog shall be deemed to be at large in the following situations: it is accompanied by and under the immediate supervision and control of the owner or other responsible person, it is a police work dog in use for police work, or it is accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.
- D. A dog participating in a show need not wear a dog identification 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 AGMAR 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 AGMAR 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 AGMAR Law, Section 110, (4)(d), and this Local Law, the Town Clerk shall collect an additional fee 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.

B. Seized Dogs and Redemption:

1. Any dog found in violation of the provisions of this local law may be seized. Every attempt will be made to use the 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. Seized dogs may be redeemed by the owner by producing proof of licensing and owner identification.

a. If owner is identified, the DCO will access violations of the local law and determine if the seized dog is able to be redeemed by the owner after payment of the redemption fee posted on the Town of Berkshire fee schedule.

b. If the owner is not identified, the DCO will turn the dog over to a humane center where the dog will be held for the redemption period set forth by NYS AGMAR law – typically five (5) days for unidentified owner. If the owner's identity is determined, the redemption period is seven (7) days with personal notification or nine (9) days if notified by mail. These redemption fees are set by the humane center and must be paid to them.

3. Any dog seized due to biting a person or animal must be held in quarantine for a period of ten (10) days at the owner's home so that rabies status or declaration of dangerous dog (as defined in AGMAR law) can be determined. In addition, the Tioga County Health Department will monitor the health status of the bitten individual. Depending on vaccination status and the evaluation of the dog and individual, the quarantine period may extend beyond the ten (10) days.

4. Per AGMAR Law, every dog seized shall be properly cared for, sheltered, fed and watered.

5. If the owner of any unredeemed dog is known, such owner shall be required to pay any veterinary expenses and 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 any 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 under oath a complaint/observance 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.
- D. The DCO, the Sheriff of Tioga County or his deputies, or any other police or peace enforcement officers who has received a complaint that a dog is a dangerous dog or have reason to believe that a dog is a dangerous dog shall follow the provisions of AGMAR Law section 123 and may commence a proceeding in the Town Court of the Town of Berkshire. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog. If such a determination is made, the judge or justice may issue an order to any dog control officer, peace officer, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. The judge may also determine that the dog's actions were justified, and therefore does not meet the criteria to be considered a dangerous dog.

Section VII: Reference

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). 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

This Local Law shall take effect immediately upon filing by the Secretary of State...October 2020