

Chapter 6

ANIMALS

[HISTORY: Adopted by the Town Board of the Town of Benton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Dog Licensing

[Adopted 12-8-2010 by L.L. No. 2-2010¹]

§ 6-1. Title.

This article shall be known and may be cited as the "Dog licensing law of the Town of Benton."

§ 6-2. Licensing of dogs.

All dogs in the Town of Benton, unless otherwise exempted by New York State Agriculture and Markets Law, must be licensed with the Town Clerk of the Town of Benton by the age of four months.

§ 6-3. Application.

The owner of each dog required to be licensed shall, for new applications and renewal applications, obtain, complete and return to the Town Clerk:

- A. A dog license application;
- B. The license application fee;
- C. Any applicable license surcharges;
- D. Such additional fees as may be established by the Town Board of the Town of Benton;
- E. Proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required;
- F. In the case of a spayed or neutered dog, a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the Town Clerk. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he or she has examined the dog and found that, because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog.

1. Editor's Note: This local law also repealed former Art. I, Dog License Fees, adopted 10-22-1979 by L.L. No. 2-1979, as amended.

§ 6-4. Identification tag.

Each dog licensed pursuant to this article shall be assigned, at the time the dog is first licensed, a municipal identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

§ 6-5. License term.

All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.

§ 6-5.1. Transferability.

Any license issued pursuant to this article shall not be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a new license for such dog.

§ 6-5.2. (Reserved)

§ 6-5.3. (Reserved)

§ 6-5.4. Fees and surcharges.

The fees and surcharges for issuing dog licenses shall be fixed by the Town Board. Such fees and surcharges may from time to time be changed as the Town Board may determine. These fees and surcharges may include:

- A. The license fee for a spayed or neutered dog;
- B. The license fee for an unspayed or an unneutered dog (such fee having to exceed the fee for a license for a spayed or neutered dog by such amount as mandated by the New York State Agriculture and Markets Law);
- C. (Reserved)
- D. In addition to the license fee authorized by this article and established by the Town Board of the Town of Benton, a surcharge if the dog to be licensed is altered (such surcharge shall be, at a minimum, such amount as mandated by the New York State Agriculture and Markets Law);
- E. In addition to the license fee authorized by this article and established by the Town Board of the Town of Benton, a surcharge if the dog to be licensed is not altered (such surcharge shall be, at a minimum, such amount as mandated by the New York State Agriculture and Markets Law);
- F. In addition to the license fee authorized by this article and established by the Town Board of the Town of Benton, a surcharge to recover and defray the cost of an enumeration of dogs living with the Town of Benton.

- G. In addition to the license fee authorized by this article and established by the Town Board of the Town of Benton, a surcharge offsetting costs associated with the provision and replacement of identification tags.

§ 6-5.5. Exemptions.

- A. Excepted from payment of the license fee are applications submitted for a dog license for any of the following dogs, provided written documentation is provided with such application that certifies such dog as being any of the following:
- (1) Guide dog;
 - (2) Hearing dog;
 - (3) Service dog;
 - (4) War dog;
 - (5) Working search dog;
 - (6) Detection dog;
 - (7) Police work dog; and
 - (8) Therapy dog.
- B. At the time the Town Board of the Town of Benton fixes the license fees authorized pursuant to § 6-5.4 of this article, the Town Board may permit a partial or full exemption to senior citizens for the dog license fees fixed by the Town Board.
- C. A dog participating in a dog show within the Town of Benton shall be exempt, during such participation only, from the requirement, contained in § 6-2 of this article and in § 111, as amended, of the New York State Agriculture and Markets Law, of wearing its identification tag.

§ 6-5.6. Penalties.

A violation of this article shall be punishable by:

- A. A fine of \$25 for a first violation;
- B. A fine of \$50 for a second violation within five years of the first violation; and
- C. Where the person was found to have committed two or more such violations within the preceding five years, either a fine of \$100 or imprisonment for not more than 15 days, or both.

ARTICLE II
Dog Control
[Adopted 5-8-2000 by L.L. No. 1-2000]

§ 6-6. Title.

This article shall be known as the “Town of Benton Dog Control Law.”

§ 6-7. Legislative purpose and intent.

The Town Board of the Town of Benton finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has created a risk of physical harm to persons, damage to property and nuisances within the Town. The purpose and intent of this article is to preserve the public peace and good order in the Town of Benton and to contribute to the public welfare, preservation and protection of the property and the person of the inhabitants of said Town by declaring and enforcing certain regulations and restrictions on activities of dogs and owners of dogs within the Town.

§ 6-8. Statutory authority; state provisions to take precedence.

- A. This article is enacted pursuant to the provisions of § 124 of the Agriculture and Markets Law of the State of New York and Articles 2 and 3 of the Municipal Home Rule of the State of New York.
- B. In the event that any provision hereof is determined to be in conflict with any law; statute, rule or regulation promulgated by the State of New York, such law, statute, rule or regulation shall take precedence over the contents hereof.

§ 6-9. Definitions; word usage.

- A. As used in this article, the following words shall have the following respective meanings:

DOG — Male or female, licensed or unlicensed, members of the species *Canis familiaris*.

OWNER — Person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog, unless the dog is or has been lost and such loss was promptly reported to the Dog Warden and a reasonable search has been made. If a dog is not licensed, the term “owner” shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person keeping or harboring a dog for a period of two weeks prior to the filing of any complaint charging a violation of this article shall be held, deemed and presumed to be the owner of such dog for the purpose of this article. In the event that the owner of any dog found to be in violation of this article shall be 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 the said dog and violation of this article.

PUBLIC PLACE — Any street, sidewalk, park, school grounds with building or other buildings or lands owned or controlled by the United States of America, any agency or branch thereof, the State of New York or any agency or administration thereof, or any political and subdivision thereof.

RUNNING AT LARGE — To be in a public place or on private lands without the consent or approval of the owner and/or lawful occupant of such lands.

TOWN — Town of Benton.

- B. Unless specifically indicated otherwise, words used in the singular sense shall include the plural sense, and words used in the plural sense shall include the singular sense.

- C. The definition and interpretation of any other terms contained herein shall be the same as said terms are defined and interpreted in the New York State Agriculture and Markets Law.

§ 6-10. Restrictions on behavior; number of dogs on premises.

- A. It shall be unlawful for any owner of a dog or any person harboring any dog in the Town of Benton to permit or allow such dog to:
- (1) Engage in habitual, loud howling or barking or in conduct which habitually annoys any person other than the owner or person harboring such a dog.
 - (2) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring the dog.
 - (3) Bite, chase or otherwise harass any person in such a manner as would possibly cause bodily harm or injury.
 - (4) Chase, continually run alongside of or bark at any form of transportation while on a public street, highway or private property.
 - (5) Run at large, if a female dog, when in heat, and such female dog shall be confined to the premises of the owner of such dog or any person harboring such dog during such period.
- B. With the exception of any incorporated humane society or similar incorporated dog protective association, any veterinary clinic or animal hospital and any approved kennel or boarding and grooming facility, it shall be unlawful to keep more than four dogs of the age of four months or more on any premises, regardless of the number of owners, unless there is a purebred License for that premises or an approved breeding facility or unless more than four licensed dogs have been kept there prior to the effective date of this article.

§ 6-11. Dog Control Officer.

The Dog Control Officer, to be designated by the Town Board as provided by § 114 of the Agriculture and Markets Law, shall enforce the provisions of this article and shall also investigate and file complaints with the Town Justice of the Town of Benton with respect to any dangerous dog, as described in § 121 of the Agriculture and Markets Law of the State of New York, and see that any order(s) of the Town Justice in such case are carried out. Any person so authorized pursuant to Article 7 of the Agriculture and Markets Law of the State of New York may also carry out the provisions of this article.

§ 6-12. Seizure of dogs at large.

Any person so authorized pursuant to Article 7 of the Agriculture and Markets Law of the State of New York may seize any dog found at large within the Town of Benton.

§ 6-13. Complaints.

Any person who observes a dog causing damage or destruction to the property of a person other than its owner, committing a nuisance upon the premises of a person other than its owner, or

otherwise violating the provisions hereof, may file a signed complaint with the Dog Control Officer of the Town of Benton specifying the objectionable conduct of the dog, the date thereof, the damage caused or violation, a description of the dog and name and residence, if known, of the owner or other person harboring said dog. Such complaint may serve as the basis for enforcing the provisions of this article by the Dog Control Officer.

§ 6-14. Enforcement procedure.

Any violation of the provisions hereof shall be subject to prosecution pursuant to the Criminal Procedure Law of the State of New York and may be commenced by appearance ticket or as otherwise authorized by § 114 of the Agriculture and Markets Law of the State of New York.

§ 6-15. Care and redemption of impounded dogs.

- A. Every dog seized shall be properly fed and cared for until disposition thereof as herein provided and in accordance with the applicable provisions of the Agriculture and Markets Law of the State of New York.
- B. If the dog so seized bears a license tag, the Dog Control Officer shall ascertain the owner of the dog and shall give immediate notice by personally serving such owner, or an adult member of his family, with a notice, in writing, stating that the dog has been seized and will be disposed of pursuant to law unless redeemed as herein provided.
- C. The owner of the dog so seized may redeem the dog within the time limits specified by § 118 of the Agriculture and Markets Law of the State of New York by paying the prescribed impoundment fees. Impoundment fees shall be established by resolution of the Town Board of the Town of Benton.
- D. If not so redeemed, the owner shall forfeit all title to the dog, and the dog shall be made available for adoption or, if not adopted, euthanized in accordance with law.

§ 6-16. Penalties for offenses.

- A. A violation of this article shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not exceeding \$250 or by a sentence of imprisonment not exceeding 15 days, or by both such fine and imprisonment.
- B. In the event of a continuous or ongoing circumstance which constitutes a violation of this article, each day that such circumstance continues or is ongoing shall constitute a separate offense of this article and may be penalized as a separate offense.
- C. The seizure of a dog shall not relieve any person from prosecution pursuant to this article.