

Dog Control Ordinance

TOWN ORDINANCE

Article 7 of the Agriculture and Markets Law of the State of New York

DOG CONTROL ORDINANCE OF THE TOWN OF BERKSHIRE

◆SECTION 1. PURPOSE:

The Town of Berkshire, New York finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this ordinance is to protect the health, safety and well-being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

◆SECTION 2. AUTHORITY:

This local ordinance is enacted pursuant to the provisions of Section 124 of Article 7 of the Agriculture and Markets Law of the State of New York.

◆SECTION 3. TITLE:

The title of this ordinance shall be "Dog Control Ordinance of the Town of Berkshire"

◆SECTION 4. DEFINITIONS:

(a) "Owner" means any person who harbors or keeps any dog. In the event any dog found in violation of this ordinance shall be owned by a person under eighteen years, the owner shall be deemed to be the parent or guardian of such person (or the head of the household in which said person resides).

(b) "Harbor" means to provide food or shelter to any dog.

(c) "At large" means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is; 1) accompanied by and under the immediate supervision and control of the owner or other responsible person; 2) a police work dog in use for police work; or 3) 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.

◆SECTION 5. RESTRICTIONS:

It shall be unlawful for any owner of any dog to permit or allow such dog, in the Town of Berkshire, to:

- (a) be at large;**
- (b) engage in habitual loud howling, barking, crying or whining or to conduct itself in such a manner so as to unreasonably and habitually annoy any person;**
- (c) cause damage or destruction to property, or commit a nuisance by defecating or urinating upon the premises of a person, other than the owner of such dog and other than the property of a person who has given permission for the dog to be upon the premises**
- (d) chase or otherwise harass any person off the premises of the owner, in such a manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury;**
- (e) habitually chase, run alongside of or bark at motor vehicles or bicycles off the premises of the owner.**

◆SECTION 6. DOGS IN SEASON (HEAT):

It shall be unlawful for any person owning or having possession of any female dog in season (heat) to permit the same to run at large, as the phrase has been heretofore defined herein, or to run loose on or within the premises of such person. The term "running loose" is defined for the purpose of this section as being outside of a house, closed garage, closed building or other enclosure upon the owner' s premises whether tied or not.

◆SECTION 7. ENFORCEMENT:

This local ordinance shall be enforced by any Dog Control Officer, Peace Officer, when acting pursuant to his special duties, or Police Officer in the employ of or under contract to the Town of Berkshire.

◆SECTION 8. SEIZURE, IMPOUNDMENT, REDEMPTION AND ADOPTION:

- (a) Any dog found in violation of the provisions of section 5 and 6 of this ordinance may be seized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.**
- (b) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption period of seven (7) days, except that where notice to the owner of such dog is given by certified mail, the redemption period will be nine (9) days.**

(c) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or the euthanasia pursuant to the provisions of Section 118 of the Agriculture and Markets Law.

d) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in Section 118 of the Agriculture and Markets 3 Law. The fees for impoundment of dogs shall be as follows:

1) ten dollars impoundment (\$10) for the first day for the first impoundment. The Town of Berkshire will impose a supplemental fee of six dollars (\$6) for each additional day the dog is held.

2) twenty dollars (\$20) for the first day for the second impoundment within one year of the first impoundment. The Town of Berkshire will impose a supplemental fee of six dollars (\$6) for each additional day the dog is held.

(e) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (d), of this section whether or not such owner chooses to redeem his or her dog.

(f) Any owner who fails to pay the impoundment fees will be guilty of a violation punishable by a fine as set forth in Section 11 of this ordinance.

◆SECTION 9. COMPLAINT:

Any person who observes a dog in violation of this ordinance may file an Information or appropriate accusatory instrument with a Justice of the Town of Berkshire, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog. The Dog Control Officer of the Town of Berkshire will assist any person in preparing and filing an Information charging a violation of this ordinance. The Dog Control Officer of the Town of Berkshire will serve any criminal summons, issued by the court, pursuant to this ordinance.

◆SECTION 10. APPEARANCE TICKET:

Any Dog Control Officer, Peace Officer, when acting pursuant to his special duties, or Police Officer in the employ of or under contract to the Town of Berkshire, observing a violation of this ordinance in his presence shall issue and serve an appearance ticket for such violation.

◆SECTION 11. PENALTIES:

Any person who violates this ordinance or normally permits the violation of this ordinance shall be deemed to have committed an offense, and any person convicted of any such violation, after investigation and hearing, shall be liable to a penalty of not more than fifty dollars (\$50) for each violation. Any person so convicted of such violation 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 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). Upon failure to pay any such fine, such person may be imprisoned in the county jail until such fine is paid, not to exceed the maximum term provided for a violation as specified by penal law.

◆SECTION 12. DISPOSITION SERVICES FOR OWNED DOGS VOLUNTARILY SURRENDERED:

(a) Any person within the Town of Berkshire who owns a dog who no longer wants such dog may surrender such dog to the Dog Control Officer, with its license, if available, for disposition, according to this section. The owner will be responsible for all costs associated with the care/disposal of such dog.

(b) A Dog Control Officer may accept from such owner of an unwanted dog the dog, with its license, if available, for disposition, provided said owner executes a consent in a form prescribed by the Town of Berkshire agreeing to the disposition and absolving the Town of Berkshire and the Dog Control Officer all liability.

(c) Any dog surrendered to a Dog Control Officer under this section shall not be subject to the redemption provisions of Section 8.

(d) Any dog surrendered to a Dog Control Officer under this section may be held for adoption for up to seven (7) days.

(e) At any time, this service for disposing of unwanted dogs by a Dog Control Officer, can be discontinued when accepting such dogs would create a condition whereby dogs seized, under the sections of this ordinance, could not, properly, be sheltered and/or surrendered.

(f) The fee for any dog to be surrendered under this section shall be fifty dollars (\$50), payable when the dog is surrendered.

◆SECTION 13. ACCEPTING FEES AND RELEASING DOGS FOR ADOPTION:

(a) It shall be proper for the Town Clerk of the Town of Berkshire, or the Dog Control Officer of the Town of Berkshire to accept any fees set under this ordinance.

(b) It shall be proper for the Town Clerk of the Town of Berkshire, or the Dog Control Officer of the Town of Berkshire to release any dog for adoption, upon the payment to the Town of any charges necessary to properly license such dog.

(c) Any dog ready for adoption, after the expiration of any time limits set for redemption or otherwise by this ordinance, shall be held for adoption for five (5) days.

◆SECTION 14. LICENSE, NEW AND RENEWAL:

This section is enacted pursuant to the authority conferred on the Town Board under Subdivisions 1 and 3 of Section 109 and Subdivision 4 of Section 110 of the Agriculture and Markets Law of the State of New York and other applicable statutes pertaining thereto.

(a) All dogs six (6) months or older are to be licensed.

(b) Application for a dog license shall be made to the Berkshire Town Clerk. The application shall be accompanied by the license fee and a certificate of rabies vaccination, or in lieu thereof, a statement, certified by a licensed veterinarian, showing that:

1) the dog has been vaccinated to prevent rabies or,

2) because of old age or other reason, the life of the dog would be endangered by' the administration of the vaccine.

(c) The annual fee for each dog license for a neutered male or spayed female shall be five dollars (\$5). The annual fee for each dog license issued for an unneutered male or unspayed female shall be thirteen dollars (\$13).

(d) Any dog owner who fails to license or fails to renew his or her dog license by the date set forth on the renewal form, issued by and mailed to the owner by the New York State Department of Agriculture and Markets, will receive from the Town of Berkshire, by certified mail, a "Notice of Failure to License or Delinquent License Renewal" form. Failure to respond to this Notice within fifteen (15) days of receipt, either in person, by telephone or by mail, will result in the appearance ticket being issued for him or her to appear in court. Fines will be imposed as set forth in Section 11 of this ordinance.

◆ SECTION 15. SEVERABILITY:

Each separate provision of this ordinance shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof remain valid.

◆ SECTION 16. REPEALER:

This ordinance shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Berkshire and they shall be, upon the effective date of this ordinance, repealed and made null and void.

**CHANGE 1
to the**

Dog Ordinance of the Town of Berkshire

◆SECTION 8 (d) to read: Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agricultural and Markets Law and by paying the impoundment fees set forth in Attachment A of this Ordinance.

◆SECTION 12 (f) to read: The fee for any dog to be surrendered under this section shall be in accordance with Attachment A of this Ordinance.

◆SECTION 14 (c) to read: The annual fee for each dog license shall be in accordance with Attachment A of this Ordinance. Public Hearing held September 14, 1999

Approved by Town Board - September 14, 1999

ATTACHMENT A to the

Dog Ordinance of the Town of Berkshire

◆I. Ref. Section 8 (d)

(1). Impoundment fees for the first day of the first impoundment shall be \$30.00. Each additional day the dog is held shall incur a fee of \$10.00.

(2). Impoundment fees for the first day of the second or subsequent impoundments shall be \$50.00. Each additional day the dog is held shall incur a fee of \$10.00.

◆II. Ref. Section 12 (f)

The fee for any dog surrendered under Section 12 shall be \$50.00 payable at the time the dog is surrendered.

◆III. Ref. Section 14 (c)

The annual fee for each dog license for a neutered male or spayed female shall be \$5.00. The annual fee for each dog license for an unneutered male or unspayed female shall be \$13.00.

Approved by the Town Board -- October 12, 1999