

## Chapter 70

### A Local Law Entitled Dog Control and Dog Licensing [Adopted 12-07-2010 by L.L. #2-2010]

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## ARTICLE I

### Dog Control and Licensing Local Law of the Town of Newark Valley

#### §70-1. Purpose and Application.

The running of dogs at large and other uncontrolled behavior of dogs has caused physical harm to persons and damage to property within the Town of Newark Valley. The purpose of this Local Law is to protect the health, safety and well-being of persons and to safeguard property by imposing restrictions upon the keeping or running at large of dogs, and by providing for the licensing and identification of dogs and the control and protection of the dog population.

#### §70-2. Authority and Application.

This Local Law is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York. This Local Law shall apply to all areas of the Town of Newark Valley, including the Village

of Newark Valley.

§ 70-3. Title.

The title of this article shall be “Dog Control and Licensing Local Law of the Town of Newark Valley.”

§ 70-4. Definitions.

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

**ADOPTION** - Adoption is the delivery to any natural person eighteen years or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.

**AT LARGE** - 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: accompanied by and under the immediate supervision and control of the owner or other responsible person; a police work dog in use for police work; or 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.

**CLERK** - The Clerk of the Town of Newark Valley.

**COMPANION ANIMAL** - Any dog or cat, or any domesticated animal normally maintained in or near the household of the owner of the animal or the person who cares for such domesticated animal. A “companion animal” shall not include any “domestic animal” as defined in this article.

**DOG** - Any member of the species *canis familiaris*.

**DOG CONTROL OFFICER** - The individual appointed by the Town of Newark Valley to assist in the enforcement of this article, who may be in the employ of or under contract with the Town of Newark Valley.

**DOMESTIC ANIMAL** - Any domesticated animal raised under a license from the New York State Department of Environmental Conservation, and any domesticated sheep, horse, cattle, llama, goat, swine, fowl, duck, swan, turkey, or confined domestic hare or rabbit.

**FARM ANIMAL** - Any animal that is an ungulate (hoofed animal), poultry, cattle, sheep, swine, goat, llama, horse, or a fur-bearing animal raised for commercial or subsistence purposes, excluding cats and dogs.

**HARBOR** - To provide food or shelter to any dog.

**IDENTIFICATION TAG** - Tag issued by the Town of Newark Valley or other licensing municipality upon the application for a dog license and payment of the license fee.

**IDENTIFIED DOG** - Any dog carrying an identification tag with the identification number assigned to that dog.

**KENNEL DOG** - A dog that is owned by a person who breeds dogs for profit and that is a member of a kennel of at least five dogs that are all owned by one owner.

**ORIGINAL LICENSE** - The first license issued to a dog by the State of New York or any municipality.

**OWNER** - Any person who harbors or keeps any dog is an owner of that dog. In the event that any dog or person in violation of this article shall be of a dog owned by a person under eighteen years of age, the owner shall be deemed to be the parent(s) or guardian(s) of such person, or, if none, the head of the household in which said person under the age of eighteen resides.

**OWNER OF RECORD** - Any person in whose name any dog was last licensed is the owner of record, except that if any license is issued on the application of a person under eighteen years of age, the owner of record shall be deemed to be the parent(s) or guardian(s) of such person. If it cannot be determined in whose name any dog was last licensed, or if the owner of record has filed a statement as described in §70-13 of this Local Law, the owner shall be deemed to be the owner of record of the dog, except that if that person is under eighteen years of age, the owner of record shall be deemed to be the parent(s) or guardian(s) of such person.

**RECOGNIZED REGISTRY ASSOCIATION** - Any registry association that operates on a nationwide basis and that issues numbered registration certificates and keeps such records as may be required by the Commissioner of Agriculture.

**TOWN** - The area within the corporate limits of the Town of Newark Valley, including the Village of Newark Valley.

**TOWN BOARD** - The Town Board of the Town of Newark Valley.

**UNALTERED** - A dog that is not spayed or neutered.

**VILLAGE** - The area within the corporate limits of the Village of Newark Valley.

§ 70-5. Restrictions.

It shall be unlawful for the owner of any dog to permit or allow such dog to engage in any of the following actions within the Town:

- A. Be at large or run at large.
- B. Engage in habitual and sustained loud howling, barking, yelping, 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, urinating, or digging 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, jump upon or at, or run alongside of persons, motor vehicles, bicycles, horses, or carriages that are on a public highway, public walkway, or private property other than that of the owner of the dog.

- E. Chase, jump upon or at, or otherwise harass any person in such manner as to reasonable cause intimidation or fear.

§ 70-6. Dogs in season (heat).

All female dogs, while in season (heat), shall be confined to the premises of their owner and may not be left unattended in an area that is open to other dogs or to the public.

§ 70-7. Liability of Owner.

- A. If a domestic animal, farm animal, or companion animal is injured or killed as a result of being attacked, chased or worried by any dog, the owner of said dog shall be liable for damages, unless the said dog was on said owner's property at the time of the incident. The owner of such injured or killed animal may make a complaint to the Dog Control Officer or a police officer. The Dog Control or police officer may treat the dog as a Dangerous Dog under Article 7 of the New York State Agriculture and Markets Law.
- B. In no event shall the Town, the Village, or the County of Tioga be held liable for any damage caused by any dog.

§ 70-8. Dangerous dogs.

The Dog Control Officer, the Sheriff of Tioga County or his deputies, or any other police or peace enforcement officers who have 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 Agriculture and Markets Law § 123 and may commence a proceeding in the Town Court of the Town of Newark Valley.

§ 70-9. Requirement of licensing of dogs and rabies vaccination.

This section is enacted pursuant to the authority conferred on the Town Board by Agriculture and Markets Law §§ 109-110.

- A. The owner of any dog shall immediately make application for a dog license if:
  - (1) The dog is four (4) months of age or older; and
  - (2) The dog is harbored in the Town of Newark Valley for a period of thirty (30) days or more and does not have a valid dog license issued by the Town of Newark Valley; and
  - (3) The dog is not exempt pursuant to Agriculture and Markets Law §109.
- B. Application for a dog license shall be made to the Clerk. No other person or entity shall have the ability to issue dog licenses for dogs harbored within the Town.
- C. The owner of the dog shall submit to the Clerk a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reason, the

life of the dog or dogs would be endangered by the administration of a vaccine. With such statement, the owner shall state the current identification number of the dog or any identification marks on the dog, if any, and the sex, age, breed, and color of the dog.

- D. In the case of a spayed or neutered dog, the owner shall also submit 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 on file with the Clerk. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he 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. If the owner does not include information on the spaying or neutering of the dog, the dog shall be deemed unaltered for the purposes of the license fee.
- E. The owner must pay license fee prescribed by the fee schedule of the Town of Newark Valley, which is established in accordance with the surcharge requirements of Agriculture and Markets Law § 110. License fees may be established and adjusted by resolution of the Town Board. License fees are never refundable.
- F. Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.
- G. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.
- H. The owner shall receive an identification tag with a number assigned by the Town of Newark Valley and shall affix the identification tag to the collar of the dog.
- I. An original license, if issued by the Clerk, shall be issued for a period of one year, and shall expire on the last day of the month that is one year from the date of issue.
- J. Any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog, as defined in Agriculture and Markets Law § 108, is exempt from the license fee paid to the Town, and the license shall be marked with the appropriate designation as set forth in Agriculture and Markets Law § 110(2). Pursuant to Article 7 of the New York State Agriculture and Markets Law, however, said dogs are not exempt from the mandated population control surcharge remitted to the State of New York.

#### § 70-10. License Renewal.

- A. License renewal documents shall be mailed by the Clerk.
- B. The owner must apply for a renewal license. A new rabies certificate or in-lieu of statement as described above shall be required if said certificate or statement has expired or expires within thirty (30) days of the date of renewal. A spay/neuter certificate shall not be required if one is on file with the Clerk. If the dog is spayed or neutered between renewals, the certificate may be presented to the Clerk.
- C. The owner may apply for and purchase a renewal license for one (1), two (2), or three (3) years,

and at that time shall pay the fee for each year of requested renewal. The renewal shall expire on the last day of the month in the same month that it was originally issued. License fees are never refundable.

- D. The month that a dog license expires will be the same month for each renewal year. A renewal month will not change due to an early or late renewal. Owners having more than one dog may request a common renewal date for their licenses, which may be granted at the discretion of the Clerk, provided that all other licensing requirements are met.
- E. An additional fee may be established by resolution of the Town Board should a dog be identified as unlicensed during an enumeration.

#### § 70-11. Identification of dogs.

This section is enacted pursuant to the authority conferred on the Town Board by Agriculture and Markets Law § 111.

- A. The identification tag issued by the Town of Newark Valley for a dog shall be affixed to a collar on that dog at all times.
- B. If a dog was licensed in a different municipality, and the dog is harbored in the Town and therefore a new license from the Clerk of the Town of Newark Valley is required, upon proper application the Clerk shall assign the dog an identification number and issue a new identification tag. The Town of Newark Valley tag shall be worn at all times and the identification tag from the prior municipality shall not be affixed to the dog's collar.
- C. If a dog's original or renewal license was made pursuant to the New York State Agriculture and Markets Law, upon proper application the Clerk shall assign the dog an identification number and issue a new identification tag. Any former identification tags shall be discarded and the Town of Newark Valley tag shall be worn at all times.
- D. Only the identification tag issued by the Town of Newark Valley shall be worn by the dog, unless otherwise exempt.
- E. Lost tags shall be replaced at the expense of the owner at a fee set in the fee schedule of the Town of Newark Valley.

#### § 70-12. Kennel Licenses.

- A. Kennel Licenses are offered in the Town as an alternative to individual dog licenses for owners that are actively involved in the breeding and sale of dogs. All dogs over the age of four (4) months owned by the holder of the Kennel License must be listed in the Kennel License application or renewal.
- B. An owner must own five (5) or more dogs to qualify for a Kennel License.
- C. At the time of application or renewal, the Clerk shall assign a Kennel License identification

number.

- D. An application or renewal for a Kennel License shall include rabies vaccine certification as specified in §70-9C for every dog listed on the license and may include information on the spaying or neutering of one or more dogs. All such applications and renewals shall be accompanied by a fee as set forth in the fee schedule of the Town of Newark Valley.
- E. Kennel Licenses shall be issued for one (1) year and renewed annually.
- F. A Kennel License is not transferable. If a dog changes ownership, the new owner must immediately apply for a dog license or, if applicable, add that dog to that owner's Kennel License.
- G. The Clerk may request that the Dog Control Officer verify the number of dogs claimed on any Kennel License.

§ 70-13. Change of ownership of dog; lost or stolen dog.

- A. In the event of a change in the ownership of any dog which has been licensed in the Town of Newark Valley or in the address of the owner of record of any such dog licensed in the Town of Newark Valley, the owner of record shall, within ten (10) days of such change, file with the Town of Newark Valley a written report of such change. Such owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.
- B. If any dog which has been licensed in the Town of Newark Valley is lost or stolen, the owner of record shall, within ten (10) days of the discovery of such loss or theft, file with the Town of Newark Valley a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this local law committed after such report is filed.
- C. In the case of the death of the dog licensed in the Town of Newark Valley, the owner of record shall so notify the Town of Newark Valley either prior to the time the license is to be renewed or upon the time of such renewal.

§ 70-14. Enforcement and appearance tickets.

The furnishing of any false or misleading information on any license application or form to the Clerk, the Dog Control Officer, or a police or peace officer is prohibited and shall be punishable pursuant to this article. This Local Law shall be enforced by any police officer, or peace officer, or may be performed by the Dog Control Officer. Such person so acting may issue an appearance ticket for a violation of this article.

§ 70-15 Seizure of dogs, redemption periods, impoundment, adoption.

- A. Any dog found in violation of this Local Law or in violation of Agriculture and Markets Law § 117(1) shall be seized pursuant to Agriculture and Markets Law §§ 117(2) and 117(1)(d).

- (1) The Dog Control Officer may hold the seized dog(s) up to the applicable redemption period.
  - (2) Seized dogs not held by the Dog Control Officer shall be delivered to the animal shelter that has contracted with the Town Board of the Town of Newark Valley to provide shelter or pound services, and shall be held there for the applicable redemption period or the balance thereof if held by the Dog Control Officer for less than the applicable redemption period.
- B. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption.
- C. Each dog seized shall be held and properly cared for, sheltered, fed and watered for the redemption period of three (3) days, except where notice to the owner of such dog is given by certified mail, the redemption period will be seven (7) days.
- D. Seized dogs may be redeemed by the owner during the redemption period if the owner accomplishes the following:
- (1) Produces proof that the dog has been licensed;
  - (2) Produces an identification tag;
  - (3) Pays impoundment fees and the costs for the facility that is at that time under contract with the Town of Newark Valley. Said costs are those sustained in order to hold, care for, shelter, feed, and water such dog(s), and are to be paid pursuant to the rates set forth in the contract entered into between the Town of Newark Valley and said facility.
- E. Upon the expiration of the redemption period set forth above, the owner of an unredeemed dog shall forfeit title to the dog, and the dog shall be made available for adoption or euthanasia pursuant to the provisions of Agriculture and Markets Law §§ 177 and 374.
- F. If the owner of an unredeemed dog is known, such owner shall be required to pay the impoundment fees or any other related fees set forth in this article or the fee schedule of the Town of Newark Valley, as well as other necessary costs and fees, such as veterinarian's fees and services, whether or not such owner chooses to redeem his or her dog.
- G. Any owner who fails to pay impoundment costs and fees or related costs and fees will be guilty of a violation punishable as set forth in § 70-17 of this Local Law.

#### § 70-16. Conditions for Dogs.

The premises occupied by dogs shall be kept in a clean and sanitary condition. An owner must provide or arrange for the provision of adequate food, water, shelter and space for each dog that he or she owns.



§ 70-17. Penalties for violations.

Any police officer, or peace officer, or Dog Control Officer, may bring an action for any violation of this Local Law and for any violation of the Agriculture and Markets Law as set forth in Agriculture and Markets Law § 118(1). Any person who violates this Local Law and is convicted of any such violation shall be liable for a penalty of not more than two hundred and fifty dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both such fine and imprisonment. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

§ 70-18. Complaint.

Any person who observes a dog in violation of this article may file an appropriate accusatory instrument with a Justice of the Town of Newark Valley, 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 may assist any person in preparing and filing an Information Accusatory Instrument charging a violation of this Local Law. Any police officer, or peace officer or Dog Control Officer Valley will serve any criminal summons issued by the court pursuant to this article.

§ 70-19. Citizen's summons.

If an individual files information alleging the prohibited conduct of any particular dog or the owner of any dog with a Town Justice, the Town Justice shall summon the alleged owner of said dog to appear in person before him. If the summons is disregarded, the Town Justice shall issue a warrant for the arrest of such person.

§ 70-20. Rabies reporting.

Any dog owner whose animal shows any signs of rabies or which has been bitten or wounded by or exposed to any other animal having rabies or which might reasonably be suspected to be infected with rabies, shall promptly notify the Tioga County Health Department of the facts and shall comply promptly and strictly with any directions given by such health department with reference to the observation of such disposition to be made of such animal, under the provisions of the Sanitary Code of the State of New York as codified in 10 N.Y. Codes, Rules & Regulations § 2.14.

§ 70-21. Nonliability.

No legal action shall be maintained against the Town, the Clerk, the Village, the Dog Control Officer, or any police or peace officer or agency for actions accomplished in connection with the enforcement of this Local Law.

§ 70-22. Separability.

If any section, paragraph, subdivision, clause, phrase or provision of this Local Law shall be judged invalid or held unconstitutional, it shall not affect the validity of the Local Law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

§ 70-23. Repealer.

This Local Law shall supersede all prior Local Laws, rules, and regulations that related to the control and licensing of dogs within the Town.

§ 70-24. Effective Date.

This Local Law shall take effect on January 1, 2011.

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Stuart Yetter, Jr.—Town Supervisor

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Date

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Barbara S. Mock - Town Clerk

