

TOWN OF BENNINGTON

Local Law Relating to the Control, Confining and Leashing of Dogs

Local Law No. ____ of the year 2025

SECTION 1. PURPOSE

The Town Board of the Town of Bennington 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 law is to preserve the public peace and good order and to contribute to the public welfare, and protect the health, safety and well-being of persons and property by imposing certain restrictions on activities of dogs and owners of dogs within the town as well as **protect the safety and well-being of dogs and other animals.**

SECTION 2. LEGISLATIVE AUTHORITY; CONFLICT WITH OTHER PROVISION

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

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 precedent over the contents thereof.

SECTION 3. TITLE

The title of this law shall be "Dog Control Law of the Town of Bennington".

SECTION 4. DEFINITION OF TERMS

As used in this Local Law, the following words shall have the following respective meanings:

The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Local Law, as amended by this Local Law, and as amended thereafter.

Animal Rescue Shelter: An animal rescue shelter is a not-for-profit facility that provides **permanent or** temporary housing and care for homeless, abandoned or stray animals, typically dogs and cats. Their purpose is to find provide suitable homes for adoption.

Confined: That such animal is securely confined or restrained and kept on the owner's premises, whether within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

"Dog" means any member of the species *Canis familiaris*, both male and female, licensed or unlicensed.

Guide Dog: Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.

Harbor: To provide food or shelter to any dog.

Hearing dog: Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within New York State during the period such dog is being trained or bred for such purpose.

Identified Dog: Any dog carrying an identification tag issued by the licensing municipality which set forth the identification number, name of municipality, and other such information that shall be required by this local law.

Unidentified Dog: Any dog found not wearing an identification tag as required by this local law.

Dog Control Officer: Any person authorized by the Wyoming County Board of Supervisors or the Town Board of the Town of Bennington from time to time to enforce the provisions of this Local Law or the provisions of the Agriculture and Markets Law.

Dangerous Dog: Any dog that when unprovoked, approaches or menaces any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, upon the streets, sidewalks or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Enclosure: A fence of at least six feet in height or other structure, such as a pen forming or causing an enclosed area suitable to prevent the entry of young children, or any part of their bodies and suitable to confine dangerous dogs in conjunction with other measure which may be taken by the owner or the keeper, such as the tethering of a dangerous dog. Such other structure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to keep the animal from escaping therefrom. If the pen or other structure has no bottom secured to the sides, the sides must be embedded in the ground no less than one foot.

Kennel: The keeping of more than four dogs over the age of four months at any single residence/property shall constitute a kennel. For purposes of this definition, guide dogs, hearing dogs, police work dogs, and service dogs shall not be counted toward the four-dog limit.

Owner: Any person owning, fostering, or harboring a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this law shall be held, deemed and presumed to be the owner of such dog for the purpose of this law. In the event any dog found to be in violation of this law, shall be owned by a minor (less than 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 Local Law.

Person: A natural person or any legal entity, including but not limited to a corporation, association, partnership or trust.

Police work dog: Any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually, being used for police work purposes.

Recreational Areas: Recreational areas shall mean any real property owned by the Town of Bennington which is used for recreational purposes by the public including, but not limited to, parks and playgrounds.

Run At Large: Run at Large shall mean to be in a public place or on private lands without the knowledge, consent and approval of the owner and/or lawful occupant of such lands.

Service dog: Any dog that has been or is being Individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian, or other legal representative.

Town of Bennington: Shall designate the area within the corporate limits of the town.

SECTION 5. RESTRICTIONS

No person being the owner, agent or harbinger of any dog shall permit or allow such dog, within the Town of Bennington to:

- a. Run at large, unless on the dog owner's property or accompanied by its owner or a responsible person with the capacity to control the dog. For the purpose of this law, a dog or dogs hunting in company with a hunter or hunters shall be considered as being accompanied by the owner.
- b. Engage in habitual loud howling or barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog. Specifically, no dog shall be allowed to bark or howl when said barking is audible from beyond the property line of the owner's residence.
- c. To cause damage or destruction to property or to urinate or defecate or to commit any other nuisance upon the premises of a person other than the owner or person harboring the dog.
- d. Bite, chase, jump upon or at or otherwise harass any person in such a manner as to reasonable cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- e. Habitually chase, run alongside of or bark at motor vehicles, motorcycles, **runners, walkers, pedestrians and/or bicycles** while on a public street, highway or place or upon public or private property other than property of the owner or harbinger of said dog.
- f. If a female dog, be off the owner's premises when in heat.
- g. Any dog on Bennington Town Park property must be accompanied by its owner or a responsible person, and must be restrained at all times by a leash no longer than six feet in length.
- h. No owner or harbinger of a dog shall permit more than four dogs four months or older to reside on any property unless the property has obtained a kennel special use permit. For purposes of this limitation, guide dogs, hearing dogs, police work dogs, service dogs, and shall not be counted toward the four-dog limit. If, at the time this article takes effect, an owner or harbinger who does not breed or sell dogs, and does not operate an animal rescue shelter, is keeping more than four dogs over four months of age as family pets at a single residence, those dogs may continue to reside there for the remainder of their lives. However, any replacement that would result in more than four dogs over four months of age residing at the residence shall require the owner or harbinger to first obtain a kennel special use permit. All owners or harborers who breed dogs and/or sell shall be subject to this

article upon the effective date of this article and are required to make immediate application for and to obtain a kennel special use permit.

- i. No dog that has been deemed dangerous may be brought into the Town limits by any not-for-profit corporation, animal rescue shelter, or owner.
- j. Any dog that has been deemed or designated as a dangerous dog shall not be permitted off the owner's premises, except as otherwise permitted by law. While on the owner's premises, the dangerous dog shall be confined at all times either indoors or within a securely enclosed and locked pen or dog run. Such enclosure shall have sides at least six feet in height and a secured top. If the enclosure does not have a secured bottom, the sides must be embedded at least one foot into the ground. The structure shall be constructed of materials sufficient to prevent the dog from escaping, including chewing through or breaking out. The premise shall also have a secondary perimeter fence.
- k. No owner or harbinger of a dog shall fail to have such dog receive the mandatory rabies vaccinations as required pursuant to the provisions of Article 21, Title IV, of the Public Health Law.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 5 of this Local Law shall be presumptive evidence against the owner or harbinger of such dog that he/she failed to properly confine, leash or control his/her dog.

SECTION 6. DANGEROUS DOGS

- a. A Dog Control Officer or police or peace officer who has probable cause to believe that a dog is dangerous, as defined by the Agriculture and Markets Law, shall immediately demand that possession of the dog be relinquished to the Dog Control Officer or a police or peace officer;
- b. Article 7, Section 123 of the Agriculture and Markets Law or any current article and section of the Agriculture and Markets Law dealing with dangerous dogs, shall hereby be adopted as the superseding authority for the process of dealing with and determining the status of a dog believed to be a dangerous dog with the exception of any fines and penalties ordered by the Court;
- c. Any person convicted of a violation of Article 7, Section 123 of the Agriculture and Markets Law, or any current article and section of the Agriculture and Markets Law dealing with dangerous dogs, shall be guilty of a misdemeanor offense punishable by the following:
 - 1. FIRST OFFENSE: A fine of not less than \$100.00 and not exceeding \$400.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding one hundred eighty (180) days or both;
 - 2. SECOND OFFENSE: A fine of not less than \$200.00 and not exceeding \$800.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding two hundred forty (240) days or both; a second offense conviction shall be a person convicted of a violation of this law on two separate occasions, of which both acts were cited within a period of one (1) year;
 - 3. In addition to the penalty set forth in this section or any other section of this local law and any other remedy available to the Town, the town may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article and, in addition to the criminal penalties imposed by the court, may maintain an action to recover civil

penalties and costs related to the forced removal of any substance violation this local law.

- d. The Dog Control Officer shall be notified immediately, but in no event more than 12 hours, if a dangerous dog is loose, unconfined, has attacked any other animal, has attacked a human being or has died.
- e. No person shall possess a dangerous dog with intent to sell, offer for sale, transfer, give away, breed, buy, attempt to buy, adopt out, foster or receive as a gift within the Town.
- f. Persons convicted of a violation of this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any dog for the protection of the public and such other expenses as may be required for the destruction of such dog.

SECTION 7. LICENSING

For licensing requirements applicable under this law, please refer to the provisions set forth in the Town of Bennington Introductory Local Law No. 3 of the year 2010.

SECTION 8. KENNELING FEES

- 1) Seized and impounded dogs may be redeemed by producing proof and licensing and identification pursuant to provisions of this local law and to the provisions of Article 7 of the Agriculture and Markets Law and by paying the following redemption fees as set forth by the Wyoming County Animal Shelter:

1st visit to the shelter: \$20

2nd visit to the shelter: \$60

3rd and any future visit to the shelter: \$100

Note: There is also a \$3 fee per 24-hour period your dog is in the shelter. This is per household, not per dog. All fees are subject to change by the Wyoming County Animal Shelter.

SECTION 9. ENFORCEMENT

This Local Law shall be enforced by any dog control officer when acting pursuant to his/her special duties. The dog control officer shall have the authority to enforce the provisions of this law in the Town of Bennington with respect to any dangerous dog, as defined in Section 123 of the Agriculture and Markets Law of the State of New York.

SECTION 10. PENALTIES FOR OFFENSES

- 1. Any person convicted of a violation of this Local Law, **with the exception of a violation of Section 6: Dangerous Dogs or harboring an unlicensed dog**, shall be guilty of a misdemeanor offense punishable by the following:
 - a. FIRST OFFENSE: A fine of not less than \$75.00 per violation and not exceeding \$250.00 per violation; proof of licensing of dog shall be required.
 - b. SECOND OFFENSE: A fine of not less than \$150.00 per violation and not exceeding \$250.00 per violation; proof of licensing of dog shall be required; a second offense conviction shall be a person convicted of a violation of this local law on two separate occasions, of which both acts were cited within a period of two (2) years;

- c. **THIRD & SUBSEQUENT OFFENSE:** A fine of \$250.00 per violation; proof of licensing of dog shall be required; a third and subsequent offense conviction of this local law shall be a person convicted of a violation of this local law on three separate occasions, of which each of the acts were cited within a period of three (3) years.
- d. In addition to the penalty set forth in this section or any other section of this local law, and any other remedy available to the Town, the Town may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article and, in addition to criminal penalties imposed by the court, may maintain an action to recover civil penalties, attorney fees and costs related to the forced removal of any substance violating this local law.

SECTION 11. APPEARANCE TICKET

Any dog control officer, peace officer when acting pursuant to his/her special duties, or police officer in the employ of or under contract with the Town of Bennington observing a violation of this local law in his/her presence shall issue and serve an appearance ticket for such violation.

SECTION 12. COMPLAINT

- a. Any person who observes a dog in violation of this law may file a complaint under oath with a Town Justice specifying the nature of this violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog.
- b. Upon receipt by the Town Justice of any such complaint, he/she shall summon the alleged owner to appear in person before him/her for a hearing, at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he/she may order:
 - 1. Any and all conditions deemed appropriate and authorized pursuant to New York Agriculture and Markets Law § 123 to ensure the safety of the public. Such conditions may include, but are not limited to, requiring the dog to be securely confined, muzzled and leashed when off the owner's premises, and restricting the dog's movement off premises to specific purposes such as veterinary care, as the Judge deems necessary.
 - 2. Such other remedy as may be warranted by the circumstances in such case.
- c. A violation of any order issued by a Town Justice under the provisions of this Section 9 shall be an offense punishable, upon conviction thereof, as provided in Section 10 of this Local Law.

SECTION 13. INCORPORATION OF AGRICULTURE AND MARKETS LAW

All sections and provisions of Article 7 of the Agriculture and Markets Law including terms and definitions are hereby incorporated for reference and clarification of meaning of definitions.

SECTION 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 is designated as a "violation" as defined by Section 10.00(3) of the Penal Law of the State of New York.

SECTION 15. CARE AND REDEMPTION OF IMPOUNDED DOGS

Every dog seized shall be properly fed and cared for until disposition thereof as herein provided and in accordance with the applicable provision of the Agriculture and Markets Law of the State of New York.

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 this 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.

The owner of the dog so seized may redeem the dog within the time limits specified by Section 118 of the Agriculture and Markets Law of the State of New York by paying the prescribed impoundment fees.

SECTION 16. SEPARABILITY

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

SECTION 17. REPEALER

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Bennington and they shall be, upon the effectiveness of this Local Law, null and void.

SECTION 18. EFFECTIVE DATE

This Local Law shall take effect immediately.