

TOWN OF BEEKMANTOWN
LOCAL LAW NO. 4 OF THE YEAR 2011

Section 1. Title. The title of this Local Law shall be “A Local Law Regulating the Sheltering of Dogs in the Town of Beekmantown.”

Section 2. Purpose. The purpose of this Local Law is to protect the health and safety of dogs within the Town of Beekmantown.

Section 3. Authority. 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 and the Municipal Home Rule Law of the State of New York.

Section 4. Definition of Terms. As used in this Local Law, the meanings of the respective terms are as follows. All terms not specifically defined herein shall have the meaning assigned to such terms within Section 108 of Article 7 of the Agriculture and Markets Law of the State of New York:

Agriculture and Markets Law. 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.

Dog. Dog shall mean male and female, licensed and unlicensed, members of the species *Canis familiaris*.

Owner. The party purchasing the license. If an animal is not licensed, the term of “owner” shall designate and cover any person or persons, who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this Local Law shall be held and deemed to be the owner of such dog for the purpose of this Local Law. In the event any dog found to be in violation of this chapter shall be owned by a minor, 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.

Owner of Record. Means the person in whose name a dog was last licensed pursuant to this chapter.

Person. A person, partnership, corporation, association or other organized group of persons, business entity, municipality, or other legal entity.

Town. Means the Town of Beekmantown, County of Clinton, State of New York.

Physical Condition. Physical condition shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody of the dog should be aware.

Inclement Weather. Inclement weather shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind or extreme heat or cold.

Dogs that are left outside. Dogs that are left outside shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building or any other permanent structure.

Section 5. Prohibited Acts. It shall be unlawful for any owner of any dog in the Town to allow such dog to:

(a) Be left outside without appropriate shelter taking into consideration its breed, physical conditions and the climate to which it is being exposed.

(b) Be left restrained in any manner outside exposed to sunlight without shade of any type when said sunlight is likely to threaten the health of the dog.

(c) Be subject to inclement weather by failing to provide adequate housing that must:

(i) Have a waterproof roof

(ii) Be structurally sound with insulation appropriate to local climatic conditions

(iii) Be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to standup, turn around and lie down with his limbs outstretched.

(iv) Allow for effective removal of excretions, other waste material, dirt and trash. The housing facility and the immediate are around it shall be regularly cleaned to maintain a healthy and sanitary environment and minimize health hazards.

Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to size, structural soundness, evidence of crowding within the housing facility, healthful environment in the immediate area surrounding such facility or by the physical condition of the dog.

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

Section 6. Enforcement. The enforcement of this Local Law shall be as follows:

- (a) This Local Law shall be enforced by the Dog Control Officer.
- (b) The Dog Control Officer observing a violation of this Local Law in his presence shall issue and serve on the owner an appearance ticket for such violation, which appearance ticket shall be in the form prescribed by the Criminal Procedure Law of this State and returnable before a Town Justice of the Town.
- (c) Any person who observes a violation of this Local Law may file a sworn statement or simplified information alleging a violation of this Local Law with a Town Justice of the Town specifying the conduct of the dog which violates this Local Law, the date and place thereof, a description of the dog and the name and residence, if known, of the owner or other person who had control of said dog.
- (d) Upon receipt by the Dog Control Officer of any complaint alleging a violation of this Local Law, the Town Court may summon the alleged owner to appear before him; if the summons is disregarded, the Town Court may issue a warrant for the arrest of the alleged owner.

Section 7. Warnings. The Dog Control Officer empowered to enforce this Local Law shall have the authority in his or her sole discretion to issue only a warning at the time of a first offense rather than enforcement as provided for in Section 6. The warning shall be in writing and in form similar to an appearance ticket and shall be issued to the owner of the dog.

Section 8. Seizure, Impoundment, Redemption and Adoption.

- (a) Any dog found to be suffering from inadequate shelter in violation of this Local Law 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 periods set forth in Section 118 of the Agriculture and Markets Law.
- (c) Seized dogs may be redeemed by producing proof of appropriate shelter and by paying the impoundment fees, Boarding fees and veterinarian bills set forth in Section 118 of Article 7 of the Agriculture and Markets Law.
- (d) If the owner of any unredeemed dog is known, such owner shall be required by pay the impoundment fees set forth in subdivision (c) of this Section whether or not such owner chooses to redeem his or her dog.

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

(f) No action shall be maintained against the Town or any Dog Control Officer, when acting pursuant to his or her special duties, or any other agent or officers of the Town or person under contract to said Town to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law or the Agriculture and Markets Law.

Section 9. Appearance Ticket. Any Dog Control Officer, when acting pursuant to his or her special duties, observing a violation of this Local Law in his or her presence may issue and serve an appearance ticket for such violation.

Section 10. Complaint.

(a) Any person who observes a dog owner in violation of this Local Law may file a complaint under oath with the Dog Control Officer 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 Court of any such complaint, he or she shall summon the alleged owner to appear in person before him or 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 or she may order such 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 shall be an offense punishable, upon conviction thereof, as provided in Section 12 of this Local Law.

Section 11. Compensation for Dogs Destroyed. The owner, possessor or harbinger of any dog destroyed under these provisions of this Local Law shall not be entitled to compensation and no action shall be maintained thereafter to recover the value of the dog.

Section 12. Penalties. A conviction of a violation of this Local Law shall be deemed an offense and punishable by a fine not exceeding One Hundred Dollars (\$100.00) for the first offense, and Two Hundred Fifty Dollars (\$250.00) for each offense thereafter.

Section 13. 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 14. License Fees. This Local Law shall not revoke, amend or otherwise apply to dog license fees in the Town as presently existing or hereafter established.

Section 15. Effective Date. This Local Law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.