

Chapter 55

ANIMALS

ARTICLE II Dog Control

§ 55-11. Purpose.

The Town Board of the Town of Conklin finds that the running-at-large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm and mental disturbance to persons, have caused damage to property, and have created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running-at-large of dogs within the Town.

§ 55-12. Authority.

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

§ 55-13. Title.

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

§ 55-14. Definitions.

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

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York (hereinafter called the "Ag and Markets Law") in effect as of the effective date of this article, and as amended thereafter.

CONFINED — Such animal is securely confined or restrained and kept on the owner's premises, either 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 any public street, way or place or otherwise restrained so that the animal cannot reach or endanger any person on 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.

DIRECT SUPERVISION — The immediate physical presence and control of a responsible person who is capable of managing and restraining the dog.

DOG — Male and female, licensed and unlicensed, members of the species *canis familiaris*.

DOG CONTROL OFFICER — Any individual appointed by the Town of Conklin or by any other municipality to assist in the enforcement of Article 7 of the Ag and Markets Law, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town of Conklin or any other municipality to assist in the enforcement of Article 7 of the Ag and Markets Law.

EXTREME WEATHER — Weather conditions that pose a risk to the health or safety of a dog, including but not limited to blizzards, winter storms, severe thunderstorms, tornado warnings, or other hazardous weather conditions. For purposes of this article, extreme weather shall include periods during which the National Weather Service has issued an active warning or alert for blizzards, winter storms, severe thunderstorms, tornadoes, or other severe weather conditions affecting the Town or surrounding area.

HARBOR — To provide food or shelter to any dog.

OWNER — Any person who harbors or keeps any dog.

OWNER OF RECORD — The person in whose name any dog was last licensed, except that if any license is issued on application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

PERSON — Any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

PRIMARY RESIDENCE — The dwelling unit where the owner or harbinger of a dog customarily resides and maintains regular overnight occupancy. Property that is vacant, seasonal, or not regularly inhabited by the owner or harbinger shall not be considered a primary residence.

RECREATIONAL AREAS — Any real property owned by the Town of Conklin which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE — To be in a public place or on private lands without the knowledge, consent and approval of the owner of such public place or private lands or to be on any public highway, street or road. Where rules, regulations and laws concerning off-leash area(s) are being properly followed, dogs off-leash in such designated areas are not deemed to be running at large. [Amended 6-12-2012 by L.L. No. 4-2012]

SCHOOL PREMISES — Any real property situate within the Town of Conklin which is used for educational purposes or purposes incidental thereto.

TOWN — The Town of Conklin, a municipal subdivision of the State of New York and situated within Broome County.

WORKING DOG — A dog actively engaged in lawful hunting activities, livestock protection, livestock herding, farm work, or a certified police or law enforcement K-9.

§ 55-15. Restrictions.

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

- A. Engage in habitual loud howling, 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.
- B. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property not belonging to the owner of such dog.
- C. Chase, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.

- D. Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harborer of the dog.
- E. Create a nuisance by defecating, urinating or digging on public property or private property other than the property of said owner.
- F. If a female dog, be off the owner's premises when in heat.
- G. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless: [Amended 6-12-2012 by L.L. No. 4-2012]
 - (1) Said dog is on a leash; or
 - (2) Said dog is in a designated off-leash area; and there is compliance with related rules, regulations and laws.
- H. Run at large on any lands, private or public, unless on a leash or under the control of the owner: [Amended 6-12-2012 by L.L. No. 4-2012]
 - (1) Except on the dog owner's lands;
 - (2) Except when under the control of the owner when the owner is hunting; and/or
 - (3) Except when in designated off-leash areas and where in compliance with rules, regulations and laws related thereto.

I. Failure to Provide Adequate Shelter or Humane Care.

Permit or allow a dog to be kept outdoors in violation of the minimum standards for shelter and care set forth in New York Agriculture and Markets Law §353-b, as may be amended, including failure to provide shelter appropriate to the dog's breed, physical condition and the prevailing climate, or failure to provide access to clean water or sanitary conditions. Failure to provide shelter required by Agriculture and Markets Law §353-b shall constitute improper confinement for purposes of this article.

A dog maintained outdoors without shelter during extreme weather conditions, including periods during which the National Weather Service has issued an active warning or alert for blizzard conditions, winter storms, severe thunderstorms or tornadoes, shall be presumed to be maintained in violation of this article.

Evidence that a dog is suffering from frostbite, hypothermia, heat stroke, dehydration or exposure-related illness or other observable evidence of neglect or exposure, shall constitute presumptive evidence that the dog has been maintained in violation of this section.

J. Harboring Dogs on Vacant or Non-Residential Property.

Harbor or maintain a dog on property within the Town that is not the primary residence of the owner or harborer, except where:

- (1) The dog is a working dog actively engaged in lawful hunting, livestock protection or livestock herding;

(2) The dog is a certified police or law enforcement K-9;

(3) The dog is under the direct supervision of a person; or

(4) The dog is owned by an unhoused individual who remains present with and maintains control of the dog.

Leaving or maintaining a dog on property that is vacant or not regularly occupied by the owner or harborer, including camps, seasonal structures, or unoccupied dwellings, shall constitute presumptive evidence that the dog is being improperly harbored or abandoned.

§ 55-16. Presumptive evidence. [Amended 9-27-2011 by L.L. No. 2-2011]

Establishment of the fact or facts that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by § 55-15 of this article shall be presumptive evidence against the owner of such dog that such owner has failed to properly confine, leash, or control his or her dog.

§ 55-17. Enforcement.

This article shall be enforced by any peace officer when acting pursuant to his special duties or by any Dog Control Officer.

§ 55-18. Seizure, impoundment, redemption and adoption.

- A. Any dog found in violation of the provisions of § 55-15 of this article, including failure to provide adequate shelter or humane care, may be seized pursuant to the provisions of § 117 of the Ag and Markets Law. [Amended 9-27-2011 by L.L. No. 2-2011]
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in § 117 of the Ag and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Ag and Markets Law and by paying the impoundment fees set forth herein.
- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees referred to in Subsection C of this section whether or not such owner chooses to redeem his dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 117 of the Ag and Markets Law.
- F. No action shall be maintained against the Town, any peace officer when acting pursuant to his special duties, or any Dog Control Officer, or any other agent, employee, or officer of the Town or person under contract to the Town, to recover the possession or value of any dog, or for damages for injury to or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this article or the Ag and Markets Law.

§ 55-19. Appearance tickets.

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 observing a violation of this article in his presence may issue and serve an appearance ticket for such violation.

§ 55-20. Complaints.

- A. Any person who observes a dog in violation of this article may file a complaint under oath with a Dog Control Officer, authorized peace officer or empowered police officer, 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.
- B. Upon receipt by the Town Justice of any such complaint, he shall summon the alleged owner to appear in person before him 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 may order:
 - (1) The dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property;
 - (2) The dog to be confined to the premises of the owner;
 - (3) Such other remedy as may be authorized by applicable provisions of law and 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 § 55-21 of this article.

§ 55-21. Penalties for offenses.

- A. A violation of this article is hereby declared to be an offense, punishable by a fine in an amount to be fixed by the court, not exceeding \$250, or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate additional violation. The Conklin Town Board may also maintain an action or proceeding in the name of the Town of Conklin in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.
- B. In addition to those penalties prescribed herein, any person who violates any provision of this article shall be liable for a civil penalty of not more than \$5,000 for each day or part therefore during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town. The action can be brought in the Supreme Court or in any other court having the requisite jurisdiction. The Town may seek reimbursement for costs incurred by the Town, including but not limited to reasonable attorney's fees.