

Chapter 55

ANIMALS

[HISTORY: Adopted by the Town Board of the Town of Conklin 12-14-2010 by L.L. No. 5-2010.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 140.

ARTICLE I Dog License Fees

§ 55-1. Purpose.

The purpose of this article is to establish the fees for the licensing and identification of dogs, the control and protection of the dog population, and the protection of persons, property, domestic animals, and deer from dog and other animal attack and damage.

§ 55-2. Authority.

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

§ 55-3. Dog licensing requirement.

A. Municipal license. All dogs within the Town of Conklin (hereinafter referred to as "the Town") four months of age or older, unless otherwise exempted, shall be licensed. The owner of each dog required to be licensed shall obtain, complete, and return to the Town Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town. Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required. Each license issued shall be valid for a period of one year and shall not be transferable.

§ 55-4. License fees.

A. Annual fee: The annual license fee for each dog license issued by the Town pursuant to Subdivision 1 of §§ 109 and 110 of the Agriculture and Markets Law of the State of New York, shall be \$12.50 for each spayed or neutered dog and \$20.50 for each unspayed or unneutered dog, which fee includes a surcharge of \$1 for altered dogs and \$3 for unaltered

¹. Editor's Note: This local law also provided an effective date of 1-1-2011 and superseded former Ch. 55, Animals, consisting of Art. I, Dog Control, adopted 12-13-1977 by L.L. No. 4-1977, as amended; Art. II, Dog License Fees, adopted 1-26-1988 by L.L. No. 1-1988, as amended; and Art. III, Animal Control, adopted 2-25-1997 by L.L. No. 1-1997, as amended.

dogs for the purpose of carrying out animal population control efforts, which surcharge shall be submitted to the animal population control fund.

- B. Enumeration surcharge: In addition to the license fee imposed by § 55-4A of this article, there shall be a surcharge of \$10, per unlicensed dog, which shall be retained by the Town and used to defray the cost of an enumeration of dogs living within the Town, enforcement of Article 7 of the Agriculture and Markets Law and the cost of providing replacement identification tags where a dog is found to be unlicensed. [Amended 9-27-2011 by L.L. No. 2-2011]
- C. Exemptions: Guide dogs, hearing dogs, service dogs, war dogs, working search dogs, detection dogs, police work dogs or therapy dogs must be licensed, but shall be exempt from the requirement of paying a license fee.
- D. Late fee: A late fee of \$10 shall be imposed for any failure to license a dog within thirty days of the expiration of a previous license. The late fee shall become \$20 where there is a lapse of 60 days or more.

§ 55-5. Exemption for dog shows.

A dog participating in a dog show shall be exempt from the identification requirements of § 111 of the Agriculture and Market Law during such participation.

§ 55-6. Penalties for offenses.

Penalties for violation of this article shall be as prescribed in § 118 of the Agriculture and Markets Law of the State of New York, as the same may be amended from time to time hereafter. Any fines or penalties imposed and bail forfeitures shall be the property of the Town and used for the purposes allowed by § 119 of the Agriculture and Markets Law, as the same may be amended from time to time hereafter.

§ 55-7. Transferability.

- A. 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.
- B. In the event of a change in the ownership of any dog which has been licensed pursuant to this article, the owner of record shall, within 10 days of such change, file with the Town Clerk 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.

§ 55-8. Loss or death.

- A. If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, file with the Town Clerk 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 article committed after such report is filed.

- B. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of license or upon the time of such renewal as set forth by the Town Clerk.

§ 55-9. Change of address.

When there is a change of address for the owner of record, the owner shall notify the Town Clerk of such change. If the change is still within the Town, the Town Clerk will make the appropriate updates to the dog license record. If the change is located outside the Town, the Town Clerk shall make a note in the record and cancel the license. The Town Clerk shall forward a copy of the license to the Clerk of the municipality to which the owner has moved, informing said Clerk that the dog now resides in their municipality. If the Town Clerk is notified by another municipality in Broome County that one of their licensed dogs has moved into the Town, the Town Clerk will issue a Town license at no charge for the remainder of the license year upon presentation by the owner of the old license.

§ 55-10. Renewal.

Renewing early or late does not change the renewal month. However, owners having more than one dog may request common renewal dates for their licenses, which may be granted at the discretion of the Town Clerk, provided that all other licensing and renewal requirements are met. No licensing fees will be prorated, refunded, or waived when accommodating such a request.

**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.

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.

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.

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.

§ 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 harbinger 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.

§ 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 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 thereof 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.

ARTICLE III
Animal Control

§ 55-22. Purpose and intent.

The purpose and intent of this article entitled "Animal Control" is to protect the property and the health and welfare of the residents of the Town of Conklin by enacting and enforcing regulations on activities of animals and their owners. This article shall not apply to dogs or dog control issues, which are addressed in the earlier articles of this chapter.

§ 55-23. Definitions.

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

ANIMAL — Cats, chickens, ducks, geese, poultry, swine, goats, rabbits, horses, cattle, reptiles, ferrets and animals typically considered to be wild but which are being housed or sustained by a person.

NUISANCE — In addition to the common law definition of "nuisance" which also may be applied hereto, any condition which would reasonably be expected to be offensive to one's person or property, including the presence of obnoxious odors, feces, flies, rodents or property damage caused by an animal or its owner.

§ 55-24. Exceptions. [Amended 9-27-2011 by L.L. No. 2-2011]

Nothing contained in this article shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agriculture and Markets Law.

§ 55-25. Restrictions.

It shall be unlawful and a violation of this article for any person, corporation or other entity to do any of the following:

- A. To permit or allow any animal in his or her possession or control to run at large so that it causes damage or destruction to property or to commit a nuisance upon the premises of a

person other than the owner or person harboring the animal.

- B. To permit or allow any animal in his or her possession or control to engage in habitual howling or other noises so as to create a nuisance.
- C. To permit or allow any animal in his or her possession or control to chase, bite, snap at, jump upon or otherwise harass or bother any person in such a manner as to reasonably cause intimidation or apprehension of bodily harm or injury.
- D. To maintain or house animals in such a manner or quantity as to be unsanitary or odor-bearing or unhealthy for the animals involved.

§ 55-26. Penalties for offenses.

- A. The violation of this article shall be punishable by a fine not to exceed \$250 for each offense and/or imprisonment for not more than 15 days.
- 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 thereof 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 attorneys' fees.

ARTICLE IV

Severability; Repealer; When Effective

§ 55-27. Severability.

The provisions of this chapter are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the chapter or part thereof is held inapplicable, had been specifically exempt therefrom.

§ 55-28. Repealer.

All ordinances, local laws and parts thereof inconsistent with this chapter are hereby repealed.

§ 55-29. Effective date.

This article shall take effect on January 1, 2011.