

**TOWN OF BINGHAMTON**  
**LOCAL LAW NO. 1 OF THE YEAR 2010**  
**A LOCAL LAW AMENDING CHAPTER 88 OF THE**  
**TOWN OF BINGHAMTON CODE**

Be it enacted by the Town Board of the Town of Binghamton as follows:

**Section 1.** Chapter 88 entitled *Animals of the Town of Binghamton Local Law* shall be amended as follows:

ARTICLE I - Dog Control

§ 88-1. Purpose.

The purpose of this article is to protect the health, safety and general welfare of the inhabitants of the Town of Binghamton by enforcing regulations on the licensing and activities of dogs in said Town of Binghamton so as to afford consistent protection to the person and property of the inhabitants thereof, including the rights and privileges of owners of dogs, the residents and the inhabitants of said Town of Binghamton.

§ 88-2. Statutory authority.

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

§ 88-3. Title.

The title of this article shall be the "Dog Control" Law of the Town of Binghamton.

§ 88-4. Definitions.

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

DOG -- Male and female, licensed and unlicensed, members of the species *Canis familiaris*.

DOG CONTROL OFFICER -- The Dog Control Officer or Code Enforcement Officer of the Town of Binghamton appointed by the Town Board pursuant to § 114 of the Agriculture and Markets Law.

OWNER -- The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog, unless the dog is or has been lost and such

loss was promptly reported to the Dog Control Officer and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the owner of such dog for the purpose of this article. In the event that the owner of any dog found to be in violation of this article shall be under 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 said dog and violation of this article.

IDENTIFICATION TAG -- A tag issued by the Town of Binghamton which sets forth an identification number, together with the name of the municipality, the State of New York, contact information, including telephone number for the municipality, and such other information as the licensing municipality deems appropriate.

RUN AT LARGE -- To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

TOWN -- The Town of Binghamton.

#### § 88-4.1. Licensing of Dogs.

A. The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog, which is under the age of four months and which is not at large except as otherwise provided in this law.

B. The application shall state the sex, actual or approximate age, breed, color, and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. The Town of Binghamton may also require additional information on such application as deemed appropriate. The application shall be accompanied by the license fee and a certificate of rabies vaccination, provided such certificate or affidavit shall not be required if the same is already on file with the Town Clerk. In lieu of the rabies certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that the life of the dog would be endangered by vaccinating due to old age or other reasons. In the case of a spayed or neutered dog, every application shall also be accompanied by 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 already on file with the Town 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. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog.

- C. All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.
- D. Purebred License: The Town of Binghamton will not be issuing Purebred or Kennel Licenses. All dogs will be licensed individually as per fee system in Section 71-10.
- E. The Town of Binghamton does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town of Binghamton Town Clerk.
- F. All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be no refund of fees.
- G. 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.
- H. 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.
- I. 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 ten (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.
- J. If any dog which has been licensed pursuant to this article 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 Clerk a written report of such loss or theft. In the case of a loss of 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.
- K. 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.
- L. 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 of Binghamton, the Town Clerk will make the appropriate updates to the dog license record. If the change is located outside the Town of Binghamton, 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 of Binghamton Clerk is notified by another municipality in Broome County that one of their licensed dogs has moved into the Town of Binghamton the Town Clerk will issue a Town of Binghamton License at no charge for the remainder of the license year upon presentation by the owner of the old license.

#### § 88-5. Prohibited acts.

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

- A. Run at large, unless the dog is restrained by an adequate collar and leash and accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this article, a dog or dogs hunting in the company of a hunter or

hunters shall be considered as accompanied by their owner and not required to be leashed while hunting.

B. Be a public nuisance. It is hereby expressly declared that any dog which engages in loud howling, barking, crying or whining so as to unreasonably annoy any person is a public nuisance. It shall be unlawful for any person to own or possess a dog which is a public nuisance as herein defined.

C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.

D. 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.

E. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property.

F. Create a nuisance by defecating, urinating or digging on public property, or on private property without the consent or approval of the owner of such property. The owner shall immediately remove all feces left by such animal, depositing the same directly into an airtight container or bag, which shall then be deposited into a container used for the disposal of refuse. In no event shall any feces be deposited in sewers or drains, whether storm or sanitary.

G. Commit a nuisance on the property of the person owning or person harboring or housing custody of such dog which nuisance may reasonably be expected to create odors, insects or other health matters which will interfere with the health, safety, welfare and comfort of adjoining property owners or property users.

#### § 88-5.1. Exemptions from prohibited nuisance.

Dogs participating in training at a Town-approved dog training facility shall be exempt from § 88-5B between the hours of 7:00 a.m. and 10:00 p.m.

#### § 88-6. Dogs in heat.

It shall be unlawful for any person owning or having possession of any female dog in heat to permit the same to run at large, as the phrase has been heretofore defined herein, or to run loose on or within the premises of such person. The term "running loose" is defined for the purposes of this section as being outside of a house, closed garage, closed building or other enclosure upon the owner's premises, whether tied or not.

#### § 88-7. Seizure and impoundment; dangerous dogs

A. The Dog Control Officer or any peace officer shall seize any unlicensed dog whether on or off the owner's premises, any unidentified dog not wearing a tag that is not on the owner's premises and/or any dog found in violation of § 88-5A and § 88-6 of this article. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law, except that each dog that is not identified shall be held for a period of three

business days from the day seized, and each dog that is identified shall be held for a period of seven business days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner complies with the requirements set forth in Article 7, § 118, of the Agriculture and Markets Law.

B. The redemption period that applies to either identified or unidentified dogs that are seized shall be calculated in terms of business days, and shall never include the day that the dog is seized, Saturdays, Sundays or national holidays. Business days are weekdays from 9:00 a.m. until 5:00 p.m.

C. The Dog Control Officer or peace officer may also investigate and report to a Town Justice of the Town any dangerous dog as described in Article 7 of the Agriculture and Markets Law and see that the order of the Town Justice in such case is carried out.

#### § 88-8. Appearance tickets.

The Dog Control Officer, Deputy Dog Control Officer(s), Town of Binghamton Park Rangers or a peace officer having reasonable cause to believe that a person has violated this article shall issue and serve upon such persons an appearance ticket for such violation(s).

#### § 88-9. Complaints.

Any person who observes a dog in violation of this article may file a complaint under oath with a Town Justice of the Town 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 such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

#### § 88-10. Fees.

A. Intent. The purpose of this subsection is to provide a schedule of fees to be charged dog owners for the providing of certain services to dog owners by the Town of Binghamton.

B. License fees.

(1) Annual fee. The annual fee for an altered dog shall be \$15.00 and the annual fee for an unaltered dog shall be \$25.00. Replacement tags shall be \$3.00.

(a) The Town of Binghamton shall charge dog owners within the Town of Binghamton dog license fees based on the above and other schedule as set from time to time by local law of the Town Board.

Inclusive in the fees set forth by the Town Board, is an assessment of \$3.00 for each unaltered dog and \$1.00 for each altered dog which may be charged for the purpose of population control as mandated by Article 7 of the Agricultural and Markets Law.

(b) Enumeration fee: When the Town Board determines the need for a dog enumeration, a fee of \$5.00 will be assessed to all dogs found unlicensed or renewed at the time enumeration is conducted.

(2) The local license fee shall be dedicated for the control of dogs and enforcement of this article and Article 7 of the Agricultural and Markets Law.

(3) There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog or police work dog. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog," "Working Search Dog," "War Dog" or "Police Work Dog," as may be appropriate, by the Clerk or authorized Dog Control Officer.

(4) The owner of a dog who requests the Town of Binghamton to pick up a dog for disposal at the county dog shelter shall pay a pickup fee and a disposal fee as set from time to time by resolution of the Town Board. Said fee shall be paid to the Town of Binghamton prior to or at the time the pickup occurs.

C. Seizure fee. In addition to the payment of any fee or penalty prescribed by this article, the owner of a dog seized by the Town of Binghamton shall pay a seizure fee as set from time to time by resolution of the Town Board for each dog so seized.

D. Veterinary fees. In addition to the payment of impoundment fees, seizure fees or any other costs and expenses incurred by the Town of Binghamton, any person redeeming an impounded dog shall be liable for the payment of all veterinarian expenses incurred by the Town of Binghamton. Payment of such expenses shall be made to the Town of Binghamton prior to the release of such dog.

E. Costs and maintenance. In addition to the payment of any penalty prescribed by this article and/or other expenses required by this article or applicable statutes, an owner shall pay the reasonable expenses incurred by the Town of Binghamton for the feeding and care of any dog so seized.

F. The Town Board may amend, by local law, the various fees set forth in this article.

#### § 88-11. Penalties for offenses

A violation of this article shall be punishable either:

A. Where prosecuted pursuant to the Penal Law, by a fine of not less than \$25, except that where the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five years, the fine may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both; or

B. Where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than \$25, except that when the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five years, the civil penalty may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than \$100.

**Section 2.** This Local Law shall take effect as of January 1, 2011 and upon filing in the office of the Secretary of State in accordance with section twenty-seven (§27) of the Municipal Home Rule Law.