

Chapter 50

ANIMALS

[HISTORY: Adopted by the Town Board of the Town of Liberty as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Dog Control

[Adopted 12-20-2010 by L.L. No. 3-2010]

§ 50-1. Title.

The title of this article shall be the "Dog Control and Licensing Law of the Town of Liberty."

§ 50-2. Statutory authority.

This article is enacted pursuant to the provisions of Article 7, §§ 109, 110 and 122 of the New York State Department of Agriculture and Markets Law of the State of New York, amended as of January 1, 2011.

§ 50-3. Purpose.

The Town Board of the Town of Liberty finds that dogs running at large, vicious dogs and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons and other animals, damage to property and created nuisances and dangerous situations within the Town. The purpose of this article is to provide 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 attack and damage.

§ 50-4. Definitions.

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

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article and as amended thereafter.

CLERK — The Town of Liberty Clerk or Deputy Town Clerk or any person authorized to issue licenses.

CONFINE — That such animal is securely and humanely confined or restrained or kept on the owner's premises, either within a building, kennel or other suitable enclosure or is securely and humanely fastened on an effective tether as set forth in § 50-10B of this article and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street or thoroughfare or, if the animal is being transported by the owner or custodian that it is securely and humanely confined in a crate or other container or so restrained in a vehicle that it cannot be expected to escape there from.

DANGEROUS DOG — A dog that has engaged in or has been trained to engage in exhibitions of fighting; a dog that has attacked a person or domestic animal without justification causing serious bodily injury or death; a dog that has behaved in a manner that a reasonable person would believe posed an unjustified threat of attack, serious injury or death to a person or domestic animal; a dog that has committed a nuisance three or more times or a dog that was previously declared dangerous by a Town Justice of the Town of Liberty or a court of any other jurisdiction. A dog's breed shall not be considered in determining whether or not it is "dangerous". Dangerous dog designation shall be made as set forth in § 50-17 of this article.

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

DOG CONTROL OFFICER — Any person authorized by the Town of Liberty to enforce the provisions of this article and/or the provisions of Article 7 of the Agriculture and Markets Law of the State of New York.

HARBOR — To provide food and/or shelter to any dog.

IRRESPONSIBLE DOG OWNER — Any owner of any dog in the Town of Liberty who has violated, three or more times, any section contained in this article or of Articles 7 and 26 of the Agriculture and Markets Law of New York State or any combination of three violations of this article and of Articles 7 and 26 of the Agriculture and Markets Law of New York State, including, but not limited to, running at large, trespassing, creating a nuisance, being off leash, causing property damage or allowing cruelty to animals, may be designated as an irresponsible dog owner as set forth in § 50-16A and B of this article by a Justice of the Town of Liberty Justice Court.

OWNER — The party making application for the license for such dog. If an animal 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 animal 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 or a violation of the Agriculture and Markets Law of the State of New York shall be deemed to be an owner of such dog, unless, in the case of a stray dog, that person notifies the Dog Control Officer of the presence of the dog and identifies the dog as a stray prior to the complaint.

PERSON WITH A DISABILITY — Any person with a disability as that term is defined in Subdivision 22 of § 292 of the New York State Executive Law.

POLICE DOG — Any dog owned or harbored by any municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actively being used for law enforcement including detection dogs.

RUN AT LARGE — An unidentified or identified dog which is unattended, uncontrolled and/or unleashed in a public place or unattended, uncontrolled and/or unleashed on private property without the knowledge and consent of the owner of such properties.

SEARCH AND RESCUE DOG — Any dog that is trained to aid in the search and/or rescue of missing persons and is actually used for such purposes.

SENIOR CITIZEN — Any resident of the Town of Liberty reaching age 65 or older.

SERVICE DOG — Any dog that has been or is being 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; to include hearing dogs and guide dogs for the blind.

STRAY DOG — Any dog not confined by its owner.

THERAPY DOG — Any dog that is trained and certified to aid in the emotional and physical health of a person and being used for such.

TOWN — Designates the area within the corporate limits of the Town of Liberty, excluding the Village of Liberty.

§ 50-5. License requirements and exceptions.

- A. All dogs within the Town of Liberty reaching the age of four months 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 of Liberty.
- B. Each license application shall contain the dog's owners name, address, phone number and the dog's name, breed, age, color, sex and official municipal identification number. The 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.
- C. Each license issued shall be valid for a period of one year and shall be nontransferable.
- D. The Town of Liberty Town Board shall establish from time to time by resolution and incorporate in the Town of Liberty Fee Schedule the fee for dog licenses to be issued pursuant to this article, including such surcharge as it may require for unspayed or unneutered dogs.
- E. Town of Liberty Town Board shall establish from time to time by resolution and incorporate in the Town of Liberty Fee Schedule a reduced fee for senior citizens as defined in § 50-4 of this article for dog licenses to be issued pursuant to this article.
- F. In addition to the license fee established by this article, each applicant for a dog license shall pay a surcharge of \$1 if the dog to be licensed is altered or a fee of \$3 if the dog sought to be licensed is unaltered, or in such other amounts as may be established from time to time by resolution of the Town Board and incorporated in the Town of Liberty Fee Schedule. This surcharge shall be remitted by the Town of Liberty to the Department of Agriculture and Markets for transmittal to the State Comptroller for deposit in the population control fund.
- G. The Town of Liberty Town Board may require each applicant for a dog license to pay a surcharge, established from time to time by resolution of the Town Board and incorporated in the Town of Liberty Fee Schedule, which surcharge shall be retained by the Town of Liberty and used to defray the cost of an enumeration of dogs living within the Town of Liberty and the cost of providing replacement identification tags.

- H. The Town of Liberty shall exempt from payment of the license fee, any applications submitted for any service, police, therapy or search and rescue dog as defined in § 50-4 of this article.

§ 50-6. Purebred licenses.

- A. The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license, in lieu of the individual licenses required by § 50-5 of this article.
- B. A purebred license shall be valid for a period of one year and shall be renewable annually. It shall be the responsibility of the owner to provide the Town of Liberty with any changes, additions or deletions to the purebred license within 30 days of applicable change or prior to renewal.
- C. The application shall state the name, address and telephone number of the owner, the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises. The application shall also include a statement by which the owner testifies that all purebred dogs on the said premises over the age of four months are included on the application.
- D. The application shall be accompanied by the license fee established from time to time by resolution of the Town Board and incorporated in the Town of Liberty Fee Schedule and by a certificate of rabies vaccination or statement in lieu thereof as required by § 50-5B of this article.
- E. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the individual dog licensing provisions of § 50-5 of this article.

§ 50-7. Identification of dogs.

- A. Each dog licensed pursuant to § 50-5 of this article shall be assigned, at the time the dog is first licensed, a permanent municipal identification number. Such identification number shall be carried by the dog on an official municipal identification tag which shall be affixed to a collar on the dog at all times. Provided that a dog is participating in a dog show, it shall be exempt from this requirement during such participation.
- B. No municipal identification tag shall be transferable.
- C. No tag carrying an official municipal identification tag shall be affixed to the collar of any dog other than the dog to which that number was assigned.
- D. The holder of a purebred license may procure, at his expense, any number of tags imprinted with the same number as the purebred license assigned to him.
- E. At the time a dog is first licensed, one identification tag shall be furnished by the Town to the owner at no expense. Any replacement tags will require the assignment of a new license number and may be obtained by the owner from the Town for an additional amount as may be fixed from time to time by resolution of the Town Board and set forth in the Town of Liberty Fee Schedule.

- F. All official municipal identification tags issued will carry the assigned number for the dog, and will be imprinted with "The Town of Liberty" and the telephone number of the Town Clerk for the Town of Liberty.

§ 50-8. Change of ownership; lost or stolen dogs.

- A. In the event of change of ownership, loss, death or theft of any dog which has been assigned an official municipal identification number or in the address of the owner of record of any such dog, 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.
- B. Any person who finds and harbors an animal without knowing the identity of or having the permission of the animal owner shall notify the Town of Liberty Dog Control Officer and furnish a description of the animal, location of where the animal was found and the date the animal was obtained within five days after the date of finding the animal. The Dog Control Officer shall reserve the right to demand possession of such animal and may impound the animal under § 50-14.

§ 50-9. Female dogs in heat.

Any female dog in heat, unless under the control of its owner, shall be confined within a protected enclosure on the premises of the owner and/or person harboring said dog.

§ 50-10. Humane treatment of dogs.

- A. Adequate shelter required. Any and all dogs harbored in the Town of Liberty must be provided with adequate and accessible shelter appropriate to each dog's breed, physical condition and the climate. The shelter must have a waterproof roof, be structurally sound and provide adequate room for free movement to make postural adjustments, including the ability to stand up, turn around and lie down with its limbs extended. The owner must effectively remove waste, excretions, dirt and trash. The housing facility and the area immediately around it, accessible to the dog, shall be cleaned regularly to maintain a healthy and sanitary environment and to minimize health hazards.
- B. Tethering of dogs. Any dog tethered in the Town of Liberty shall be so confined as to provide for the comfort and safety of the dog. The dog will be secured in a way that the tether cannot become entangled with other objects. Collars or harnesses used to attach a dog must be comfortable and properly fitted at the discretion of the Town of Liberty Dog Control Officer. Excessive collars, such as but not limited to heavy chains and choke chains, shall be prohibited. Restraints must allow the dog to move about and lie down comfortably with access to adequate shelter as defined in § 50-10A of this article. Any dog tethered in the Town of Liberty must, on occasion and no less than once every two days, be removed from the tether for at least two hours in each two-day time interval.
- C. All dogs within the Town of Liberty will be provided with adequate food and access to clean drinking water at all times.

- D. No animal shall be confined within or on a motor vehicle at any location in the Town of Liberty under such conditions as may endanger the health or well-being of the animal, including but not limited to dangerous temperatures.
- E. No animal shall be left for more than 12 consecutive hours without minimal care.
- F. No person shall knowingly place food of any description containing poisonous or other injurious ingredients in any area reasonably likely to be accessible to animals, except as provided by law for nuisance, vector, or predator control.

§ 50-11. Restrictions.

- A. It shall be unlawful for any owner of any dog in the Town of Liberty to permit or allow such dog to;
 - (1) Run at large other than on premises owned or operated by the owner or on premises where the dog owner has the landowner's permission to allow the dog to run.
 - (2) Trespass.
 - (3) Be off leash when the dog is off the owner's property. The leash must be no more than six feet in length. Dogs must be accompanied by and under direct control of their owner or custodian.
 - (4) For the purposes of this article, any dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by their owner and a dog or dogs performing farm or livestock duties shall be considered as accompanied by their owner.
 - (5) Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and/or habitually disturb the comfort or peace of any reasonable person other than the owner of the dog.
 - (6) Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or any other property not belonging to the owner of the dog.
 - (7) Chase, jump upon, harass or threaten any person while that person is lawfully on any public street, sidewalk or property not owned by the owner of the dog in a manner which causes a reasonable person to feel intimidated or put such a person in fear of bodily injury.
 - (8) Chase, run alongside or bark at any motor vehicle or bicycle while said vehicle or bicycle is on a public street or highway or upon public or private property.
 - (9) Defecate, urinate or dig on public or private property other than the property of the owner. Any person in physical possession or control of any animal off the premises of the animal's owner shall immediately remove excrement or other solid waste deposited by the animal in any public or private area.
- B. It shall be unlawful for any owner or custodian of any dog to knowingly and intentionally, whether for amusement of self or others, or for financial gain, cause or allow any animal to fight or injure any other animal, cause it to be fought or injured by any other animal or to

train or keep for the purpose of training any animal with the intent that the animal shall be exhibited combatively with any other animal. Anyone who permits such conduct on premises under that person's control, and any person present as a spectator at that exhibition, shall be considered a violator of this article and subject to arrest and punishment upon conviction.

- C. The owner of any dog harbored in the Town of Liberty will be held responsible for every behavior of such dog under the provisions of this article.
- D. It shall be unlawful for the owner, lessor, operator or person in control of any land, hotel, bungalow colony, apartment house, rooming house, mobile home park, resort, camp or campgrounds situated in the Town of Liberty to allow any dog owned by or in the possession of any guest, tenant, lessee, occupant or employee of any portion of said premises to run at large on any portion of said premises or to violate any other restriction or provision contained in § 50-11A of this article. The owner, lessor, operator or person in control of any said parcel or land shall ensure that proper housing or shelter, confinement and tethering be provided for any dogs harbored on said property.
- E. Failure of the owner, lessor, operator or person in control of any lands or facilities to comply with § 50-11A(5) of this article shall constitute an offense punishable in accordance with § 50-19 of this article.

§ 50-12. Rabies vaccination.

- A. Any dog harbored in the Town of Liberty shall be vaccinated against rabies and such vaccination shall be kept current by appropriate subsequent vaccination.
- B. Upon request of a Town Justice, Town Clerk, Dog Control Officer, peace officer, police officer or law enforcement officer, the owner or person in custody of any dog in the Town of Liberty shall provide a current certificate of rabies vaccination.

§ 50-13. Enforcement official.

This article shall be enforced by a Dog Control Officer as defined in § 50-4 of this article or any peace officer or police officer of the Town of Liberty or any law enforcement officer with jurisdiction in the Town of Liberty.

§ 50-14. Seizure, redemption and disposition of unclaimed dogs.

- A. Any dog control officer or peace officer acting pursuant to his/her special duties, or any police officer in the employ of or under contract with the Town of Liberty, shall seize any dog in violation of this article or Article 7 of the Agriculture and Markets Law of the State of New York. Such dog shall be impounded and disposed of in accordance with this article and Article 7 of the Agriculture and Markets Law of the State of New York or other applicable provisions within the Agriculture and Markets Law.
- B. Upon impounding a dog, the Dog Control Officer will make reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained, including but not limited to application for a dog license, current rabies vaccination and payment of all applicable impoundment fees.

- C. Dogs not claimed by their owners within a period of five full days become the property of the Town of Liberty.
- D. If convicted of any violation herein, the owner shall pay restitution as ordered by the Town of Liberty Justice Court and shall pay impoundment fees in such amount as fixed from time to time by resolution of the Town Board and set forth in the Town of Liberty Fee Schedule.
- E. Any dangerous dog may be impounded by the dog control officer, peace officer or any law enforcement officer with jurisdiction in the Town of Liberty.
- F. In the event that the Town of Liberty Dog Control Officer, a peace officer, a police officer or other authorized official finds a dog or dogs to be suffering, they shall have the right to remove or cause to be removed any such dog or dogs to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. The Town of Liberty, as impounding agency, may apply for a security bond as provided for in Article 26, § 373, Subdivision 6a of the Agriculture and Markets Law of the State of New York. Return of such dog or dogs to the owner may be withheld pending disposition of criminal charges and until the owner makes payment in full of all expenses, fines, surcharges and restitution so incurred.
- G. Disposal of an animal by any method specified here in does not relieve the owner of liability for violations and any accrued charges.
- H. Any dog seized under this article that becomes the property of the Town of Liberty shall be disposed of pursuant to Article 7, § 117, Subdivision 7-a, of the Agriculture and Markets Law of the State of New York.

§ 50-15. Appearance tickets; complaints.

- A. The Dog Control Officer, a Peace Officer or a Police Officer of the Town of Liberty observing a violation of this article in his/her presence may issue and serve an appearance ticket for such violation. The appearance ticket shall be in the form prescribed by the Town Board by resolution and in accordance with the provisions of § 122 of the Agriculture and Markets Law of the State of New York and this article. An answer to such appearance ticket shall be made within five days of the violation by registered or certified mail, return receipt requested, in lieu of a personal appearance on the return date at the time and court specified in the appearance ticket in accordance with § 122 of the Agriculture and Markets Law of the State of New York and this article.
- B. Any person who observes a dog in violation of this article may file a complaint under oath with a Dog Control Officer, peace officer, police officer or law enforcement officer specifying the nature of the violation, the date thereof, a description of the dog and the owner's name and residence if known. Upon receipt by the Dog Control Officer, peace officer, police officer or law enforcement officer of any such complaint, the Dog Control Officer, peace officer, police officer or law enforcement officer shall summon the alleged owner of the dog to appear in person before a Town Justice for a hearing at which both the complainant and the 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, the Town Justice may, in addition to imposing a penalty pursuant to § 50-19:

- (1) Order the owner to restrain such dog by collar or harness and leash at all times whether on or off the owner's property.
 - (2) Order the owner to confine such dog to the premises of the owner.
 - (3) Order that the dog be spayed or neutered.
 - (4) Order permanent identification of dog such as by tattoo or microchip.
 - (5) Impose such other remedy authorized by law as may be warranted by the circumstances in each case.
 - (6) Order permanent confinement in the case of any dog deemed dangerous and a threat to public safety.
- 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 § 50-19.

§ 50-16. Irresponsible dog owners.

- A. A hearing shall be held before a Justice of the Justice Court of the Town of Liberty to determine whether the accused is an irresponsible dog owner.
- (1) A Dog Control Officer, peace officer, police officer, law enforcement officer or a Town prosecutor, acting upon a complaint or through personal knowledge, may petition the court for a declaration that a person is an irresponsible dog owner as defined in § 50-4 definitions of this article and that he be penalized as provided herein.
 - (2) Upon petitioning the court, the accused shall be given notice as in civil cases that if he does not appear before the court and show cause why he should not be declared an irresponsible dog owner, then he shall be declared an irresponsible dog owner and shall be penalized as provided herein.
 - (3) At the court hearing to determine whether the accused is an irresponsible dog owner, the court may admit into evidence all relevant evidence, including but not limited to prior convictions, incident reports and affidavits of witnesses. A jury shall not be available. The court may find, upon a preponderance of the evidence, that the accused is an irresponsible dog owner and, upon such finding, shall impose the penalty or penalties provided in § 50-16B hereof.
- B. An irresponsible dog owner as defined in § 50-4 of this article and declared such as provided in Subsection A of this section shall be penalized with any or all of the following:
- (1) Fine of up to \$250 upon the first conviction hereunder; up to \$350 upon the second conviction hereunder; and up to \$500 upon the third and subsequent convictions hereunder.
 - (2) An irresponsible dog owner may be ordered to permanently surrender one or all of his dogs to the Dog Control Officer and refrain from owning, keeping or harboring any dog or dogs for a period of up to three years or a time the presiding Justice shall deem appropriate.

- (3) Order the owner to restrain such dog by collar or harness and leash at all times whether on or off the owner's property.
 - (4) Order the owner to confine such dog to the premises of the owner.
 - (5) Order that the dog be spayed or neutered.
 - (6) Order permanent identification of dog such as by tattoo or microchip at the owner's expense.
 - (7) Impose such other remedy authorized by law as may be warranted by the circumstances in each case.
 - (8) Order permanent confinement in the case of any dog deemed dangerous and a threat to public safety.
- C. The provisions hereof shall be in addition to any other civil, criminal or administrative laws, regulations or causes of action against the owner of the dog or any other person, firm, corporation or governmental entity or employee.
- D. A violation of an order made under § 50-16 of this article may be punishable as a separate and distinct violation of this article and/or as a criminal contempt of court as defined in Article 215 of the New York State Penal Law.

§ 50-17. Dangerous dogs.

- A. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal, farm animal to a dog control officer or police/peace officer of the Town of Liberty. Such officer shall immediately inform the complainant of his right to commence a proceeding as provided in Article 7, § 123 of the Agriculture and Markets Law of the State of New York. The officer, at his discretion, may commence such proceeding without consent of the complainant if the information provided by the complainant is compelling enough to suspect the dog is a dangerous dog and a threat to public safety.
- B. Any dog owner violating any provision of a confinement order after said dog is deemed dangerous by a Justice of the Town of Liberty Justice Court will be subject to immediate seizure of his dog identified in the order by the Town of Liberty Dog Control Officer with no further notice and will become the property of the Town of Liberty.
- C. Any dog owner violating any provision of a confinement order as issued by a Justice of the Town of Liberty Justice Court may be punishable as a separate and distinct violation of this article and/or as a criminal contempt of court as defined in Article 215 of the New York State Penal Law.

§ 50-18. Exemption from civil liability.

- A. If any dog shall, without justification, attack a person, or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury to a person, when such person is peaceably conducting himself in a place

where he may lawfully be, such person or any other person witnessing the attack or threatened attack may destroy such dog while so attacking, and no liability in damages or otherwise shall be incurred on account of such destruction.

- B. If any dog shall, without justification, attack a companion animal, farm animal or domestic animal, or shall behave in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a companion animal, farm animal or domestic animal, where such animal is in any place where it may lawfully be, the owner or caretaker of such animal, or any other person witnessing the attack, may destroy such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

§ 50-19. Penalties for offenses.

Unless otherwise provided by the Agriculture and Markets Law of the State of New York or specified in any other section of this article, any violation of any provision of this article shall be punishable by a fine of not more than \$250 or by imprisonment of not more than 15 days or both.

§ 50-20. Severability clause.

If any part of this article shall be held invalid, such a part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this article.

§ 50-21. Noninterference.

No person shall interfere with, hinder, or molest any agent of the Town of Liberty in the performance of any duty as herein provided. Any person violating this section shall be subject to the charge of obstructing governmental administration.