

Passed 9/17/90

VILLAGE OF BERGEN
LOCAL LAW NO. _____ OF THE YEAR 1990

SECTION 1 TITLE

The title of this law shall be "Dog Control Law of the Village of Bergen."

SECTION 2 AUTHORITY

This Local Law is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated herein except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply, and enforcement of this Local Law is intended by application of the Penal Law.

SECTION 3 PURPOSE

The purpose of this Local Law is to protect the health, safety and well-being of persons, property, wildlife, and dogs by imposing restrictions on the keeping and running at large of dogs within the Village. This Law is being enacted because the running at large and other uncontrolled behavior of dogs creates the risk of physical harm to persons, damage to property, and creation of a nuisance within the Village.

SECTION 4 DEFINITION OF TERMS

For the purpose of this Local Law, the terms as hereinafter used are defined as follows:

Agriculture and Markets Law - The Agriculture and Markets Law of the State of New York in effect during the life of this Local Law. The Agriculture and Markets Law is abbreviated as Agr. & M.L.

All terms defined in Section 108 of the Agr. & M.L. shall have the same meaning as used herein unless specifically modified.

Dog Control Officer - Any person authorized by the Village Board, County or State Legislature from time to time, directed or permitted to enforce the provisions of this Local Law or the provisions of the Agr. & M.L.

Animal Hospital - A facility operated by veterinarian or certified animal care persons for the purpose of treating sick or injured animals.

Confined - A dog is securely confined or restrained when it is 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 on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, it is securely confined in a crate, on a tether or in other container, or so restrained within an enclosed vehicle in a safe manner consistent with the dog's good health so that it cannot be expected to escape therefrom (see Agr. & M.L. Section 353 and 356 - Cruelty to Animals).

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

Dog Owner - A dog owner is the person, persons, firm, association or corporation who:

- Purchased the license for the dog and is the registered owner; or
- Professes ownership of the dog; or
- Has custody or control of the dog; or
- Harbors or is otherwise responsible for the dog; or
- Is the parent, guardian or head of household of any minor under 18 years of age who owns or harbors the dog; or
- Brings into or permits the dog to come into the Village.

For proof purposes, any person harboring, possessing or controlling a dog for a period of one week prior to the filing of any complaint charging a violation of this Local Law or Agr. & M.L., shall be held and deemed to be the owner of such dog for the purposes of this Local Law. Parents, guardians or heads of household, as mentioned above, shall be deemed to have custody and control of dogs owned or harbored by minors and shall be responsible for compliance with this Local Law and Agr. & M.L. in the Village.

Kennel - A kennel is a facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale, as certified by the Registrar of Vital Statistics.

Purebred Breeder - A purebred breeder is a person, firm, association or corporation who raises dogs for show, competition or sale as certified by the Town Clerk.

Recreational Areas - Recreational areas shall mean any real property owned by the Town, County or State located in the Town which is used for recreational purposes by the public, including, but not limited to, parks or playgrounds.

Run at Large - The terms "run at large" shall mean to permit dogs freedom to run in a public place or on private lands without the knowledge, consent and approval of the owner of such lands, or running on any public highway.

Village - The "Village" as used herein shall mean any designated area within the boundary lines of the Village of Bergen.

SECTION 5 LICENSING

All dogs within the Village shall be identified, licensed and vaccinated in accordance with the requirements of Article 7 of the Agr. & M.L., particularly Section 109 thereof.

SECTION 6 LICENSING FEES AND THEIR DISPOSITION

As authorized by Section 110 of the Agr. & M.L., and as required for controlling dogs, the fees for licensing dogs in this Village are:

- A. Five Dollars (\$5.00) for each spayed or neutered dog;
- B. Fifteen Dollars (\$15.00) for each unspayed or unneutered dog;
- C. For dog owners sixty-five (65) years of age or older, Two and 50/100 Dollars (\$2.50) for a spayed or neutered dog or Seven and 50/100 Dollars (\$7.50) for an unspayed or unneutered dog; and
- D. For all other licenses the same as provided in Subdivisions 2 and 3 of Section 110, Agr. & M.L.

The fees listed in subparagraphs (A) and (B) above that are in addition to those required by Section 110 of the Agr. & M.L. shall become the property of the Registrar of Vital Statistics; which additional amount presently is Two and 50/100 Dollars (\$2.50) for each spayed or neutered fee and Seven and 50/100 Dollars (\$7.50) for each unspayed or unneutered fee.

SECTION 7 CHANGE OF OWNERSHIP OR ADDRESS; LOST, STOLEN OR DEAD DOGS

A. Change of Ownership or Address

In the event of a change in the ownership of any dog which has been assigned an official identification number or the

address of the dog owner of record, the dog owner of record shall within ten (10) days of such change, file with the Registrar of Vital Statistics a written report of such change. Such owner of record shall be liable for any violation of Agr. & M.L., Section 113.1 or this Local Law until such filing is made or until the dog is licensed in the name of the new owner.

B. Lost or Stolen Dog

The dog owner of any dog which has been assigned an official identification number and has been lost or stolen shall within ten (10) days of the discovery of such loss or theft first contact the Genesee County Animal Shelter and then file with the Registrar of Vital Statistics a written report of such loss or theft and shall comply with Section 113.2 Agr. & M.L. In the case of a loss or theft, the dog owner of record shall not be liable for any violation of this Local Law committed after such report is filed.

C. Dog's Death

The dog owner of record shall notify the Registrar of Vital Statistics of the dog's death either prior to renewal of license or upon the time of such renewal as set forth in Subdivision 1 of Section 109 Agr. & M.L., and shall otherwise comply with Section 113.3 Agr. & M.L. Failure to so notify the Registrar of Vital Statistics of the death of a dog as required herein shall constitute a violation of this Local Law and the dog owner of record shall be held liable.

SECTION 8 DOG CONTROL OFFICER

The Village Board will by special resolution maintain the appointment of a Village Dog Control Officer as required by Section 114 Agr. & M.L., setting compensation therein. Such Officer shall have authority as set forth in Subdivision 4 of Section 114 Agr. & M.L. and shall be responsible for enforcing the Agr. & M.L. and this Local Law of the Village. The Village Dog Control Officer is hereby authorized to issue an appearance ticket pursuant to Section 150.20 of the Criminal Procedure Law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this Local Law as specified in Sections 114.4 and 124.2.c Agr. & M.L. The Dog Control Officer shall maintain all reports required by Article 7 Agr. & M.L., specifically Subdivisions 5 and 6 of Section 114.

SECTION 9 LICENSING ENFORCEMENT

A. License Renewals

The Village Dog Control Officer shall periodically review the records of the Registrar of Vital Statistics to ascertain

dog owners who have failed to renew dog licenses within the prescribed time period, and shall initiate enforcement thereof by posting or personally delivering a ten (10) day notice of delinquency to the dog owner of record and if the license is then not renewed within the ten (10) day period, initiate prosecution of such act as a violation under the Penal Law in accordance with Section 119 Agr. & M.L. and this Local Law.

B. Dog Census for Licensing Purposes

The Village Dog Control Officer will complete a Village dog census every three (3) years and dog owners discovered to be in violation of the Agr. & M.L. or this Local Law will be served or posted a ten-day notice of delinquency requesting the owner to come into compliance. Thereafter, should the dog owner fail to come into compliance within the ten (10) day period, the Dog Control Officer will initiate prosecution of such act as a violation under the Penal Law in accordance with Section 119 Agr. & M.L. and this Local Law. Completed dog census reports will be kept on file with the Registrar of Vital Statistics.

SECTION 10 NIGHT QUARANTINE OF DOGS

The Village adopts the same night quarantine of dogs invoked by the Genesee County Legislature on April 9, 1980, in Resolution No. 89, which Resolution requires that all dogs within the County shall be securely confined by dog owners (see Section 11, Subsection B for exception) between sunset and one hour after sunrise. Violations of this quarantine shall be punishable in accordance with Agr. & M.L. and this Local Law and dogs may be seized or destroyed as authorized by Agr. & M.L., Section 123 (see attached copy of Genesee County Legislature Resolution No. 89 of 1980).

SECTION 11 RESTRICTIONS

It shall be unlawful for any dog owner in the Village to permit or allow a dog to:

A. Violate the County night quarantine noted in Section 10 above.

B. Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by command, or on its owner's property. For the purpose of this Local Law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.

C. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably or habitually disturb the comfort or repose of any persons other than the owner of such dog.

D. Uproot, dig into, upset or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers or other property not belonging to the owner of such dog.

E. Destroy, kill or damage any poultry, livestock, or domestic pets not belonging to the owner or protected wildlife.

F. 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 except when such person may be on the owner's private property without said owner's consent.

G. Habitually chase, run alongside or bark at motor vehicles, cyclists and/or pedestrians while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog.

H. Create a nuisance by defecating, urinating or digging on public or private property other than the property of the said owner.

I. Allow a female dog to be off the owner's premises while in heat except when transporting such dog to a veterinarian's office or when involved in a formalized, controlled breeding program.

J. Run at large on any school premises or recreational areas, or the sidewalks adjacent thereto.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the dog owner that he/she has failed to properly confine, leash (or control) his/her dog.

SECTION 12 SEIZURE OF DOGS

A. Village, Town, County and State Dog Control Officers and/or Police Officers may seize any dog found:

(1) Not to be identified and not on the owner's property; or not to be licensed whether on the owner's property or not (see Agr. & M.L. 118); or

(2) Any dog found running at large in violation of the above quarantine or restrictions.

B. To effect seizure, Officers may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog, and such dog shall be impounded and disposed of pursuant to Section 118 Agr. & M.L. Officers are not authorized, hereby, to enter a building in order to seize a dog without permission of the building owner. When permission is not given and probable cause exists to believe that a dog is in the building and is in violation of the Agr. & M.L. or this Local Law, then an Officer can proceed before a court of law to obtain a warrant to enter the building to seize the dog by application of the Criminal Procedure Law Article 690. The Village Dog Control Officer will maintain records of seized, impounded, forfeited and adopted dogs as required by Section 118 Agr. & M.L. and by the Genesee County Animal Shelter.

C. The seizure of any dog shall not relieve any owner from any violation provided for by the Agr. & M.L. and this Local Law.

D. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog seized pursuant to this Local Law on the part of the Village, County or State Dog Control Officers or Police Officers (see Agr. & M.L. Section 118.11).

SECTION 13 HOLDING PERIODS AND IMPOUNDMENT FEES

Following seizure of a dog pursuant to this Local Law, it shall be impounded pursuant to Section 118 of Agr. & M.L., and the holding period and fee will be as set forth in Section 118 Agr. & M.L. Impoundment fees shall be paid to the County Dog Control Officer and will be credited to the respective municipality in Subdivision 5 of that Law.

SECTION 14 DOG FORFEITURE, ADOPTION AND EUTHANIZATION

All dogs seized pursuant to this Local Law will be subject to forfeiture, adoption and euthanization as set forth in Section 118 Agr. & M.L. and the County Animal Shelter Rules and Regulations. The Village hereby encourages that all dogs adopted following seizure pursuant to this Local Law be spayed or neutered before or after release from impoundment as the County Animal Shelter might require (see Section 118.7 Agr. & M.L.).

SECTION 15 ENFORCEMENT

This Local Law may be enforced by either Village Dog Control Officer, County or State Dog Control Officers and/or Police Officers.

SECTION 16 VIOLATIONS

It shall be a violation, punishable as provided in Section 119 Agr. & M.L. for:

- A. Any dog owner to fail to license any dog;
- B. Any dog owner to fail to have any dog identified as required by Agr. & M.L. Section 112;
- C. Any dog owner to violate the night quarantine noted above;
- D. Any dog owner to knowingly affix any false or improper identification tag; or
- E. Any dog owner to violate any of the restrictions listed in this Local Law;

Upon a violation of this Local Law, the Village Dog Control Officer, County and State Dog Control Officers and/or Police Officers may proceed in accordance with Section 119 Agr. & M.L.

Fines and penalties for any violation of this Local Law will be in amounts set forth in Section 119 Agr. & M.L.

Violations of this Local Law shall be prosecuted pursuant to the Penal Law (see Section 119.2 Agr. & M.L.).

The Village Dog Control Officer may serve appearance tickets personally upon violating dog owners as required by law.

SECTION 17 DANGEROUS DOGS

Dogs believed to be dangerous to human beings, domesticated or protected animals will be proceeded against pursuant to Section 121 Agr. & M.L.

SECTION 18 DISPOSITION OF FINES, PENALTIES AND/OR BAIL FORFEITURES

All money collected by the Justice Court as a fine, penalty and/or bail forfeiture pursuant to this Local Law or Article 7 of Agr. & M.L. shall become the property of the Village.

SECTION 19 COMPLAINTS

A. Any person who observed a dog in violation of this Local Law may file a complaint with either the Village, County or State Dog Control Officers and/or Police Officers, specifying the nature of the violation, the date thereof, a description of the dog and the name and address, if known, of the owner of the dog.

B. Upon receipt by the Village, County or State Dog Control Officers and/or Police Officers, of any such complaint, he/she may investigate said complaint or he/she may summon the alleged owner to appear in person before the Town Justice 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/she 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, and/or

(2) Such other remedy as may be warranted by the circumstances in such case (including euthanasia).

C. A violation of any order issued by a Town Justice under the provisions of this Section 19 shall be an offense punishable, upon conviction thereof, as provided in Section 16 of this Local Law.

SECTION 20 SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision hereof shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 21 REPEALER

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Village of Bergen and they shall be, upon the effective date of this Local Law, null and void.

SECTION 22 EFFECTIVE DATE

This Local Law shall take effect immediately.

Village Clerk's Certificate of Adoption

Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 90....
County
City
of the ~~Town~~ of Bergen..... was duly passed by the Board of Trustees.....
Village
(Name of Legislative Body)
on 19 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village
(Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village
(Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
thereon at the ^{general} special election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
City
of the Town of was duly passed by the
Village
(Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and

(City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 1990..... of the City of having been submitted to referendum pursuant to the provisions of §36 §37 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special general election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

BEVERLY A. CROSIER, Deputy Clerk

Date:

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ..GENESEE.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

ATTORNEY
Signature