

# Animal Control Law – Village of Bergen

Local Law Number 2 of 2018

## **Amending Local Law Number 5 of 1990 Dog Control Law of the Village of Bergen to be renamed Animal Control Law**

Be it enacted by the Village of Bergen as follows:

### **Section 1 – Purpose**

This local law shall be known and cited as “The Animal Control Law” and sets forth certain regulations to govern the control of animals within the Village and the protection of persons, property and domestic animals from attack and damage.

The Village of Bergen Board of Trustees finds that the control of animals of all kinds within the village limits is necessary to keep a nuisance free, healthy and safe environment for the village residents and all who visit the area.

### **Section 2 – Authority**

This Local Law is enacted pursuant to the provisions of Section 124 of Article 7 of the NYS Agriculture and Markets Law (Agr. & M.L.). The enforcement of these laws shall fall on the responsibility of the *Animal Control Officer* appointed by the Village of Bergen Board of Trustees.

### **Definitions**

**Animal** – Any non-human domestic animal or, if not naturally domestic, one which has come under the control of a human person by being taken from its natural state and tamed by continual association or training by a human person.

**At large** – not on the premises of the animal’s owner and not confined

Agriculture and Market Law – The Agricultural and Market Law in and for the State of New York, in effect as the date of this law, and as may thereafter be amended. (Agr. & M.L.)

**Confined** – kept on the owner’s premises, either within a building, kennel fenced in area 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 public street, way or place, or, if the animal is being transported, that is securely confined in a vehicle so that it cannot escape there from.

**Dog** – any member of the species canis familiaris

**Domestic Animal** – (as per Village of Bergen Zoning Law) animals commonly kept as household pets including, but not limited to; dogs, cats, rabbits, caged birds, guinea pigs, non-poisonous snakes, fish, turtles, frogs, mice, and ferrets. Species of animals which are considered harmful (i.e. poisonous) to humans shall not be considered domestic animals.

**Owner** – person or persons to whom the animal is licensed, if a license is required and has been issued, but if not, then the person who owns, has custody of, harbors or otherwise cares for the animal found within the Village of Bergen. If the owner of the animal is a minor, the head of the

household in which the said minor resides shall be deemed to be the owner of said animal and shall be liable for any violation of this law.

**Person** – any individual, association, partnership, corporation or other entity

**Leash** - (at least 1/8 inch rope, chain, leather, or equivalent material not exceeding 6 feet in length)

### **Section 3 – All Dog Breeds**

It shall be unlawful for an owner of any dog to allow or permit such dog to:

- A. Run at large.
- B. Be permitted in any of the streets or public places of the Village of Bergen unless it is effectively restrained by a *chain or leash not exceeding six (6) feet in length and is attended by a person of adequate strength to control its actions.*
- C. A female dog, when in heat, should not be off the owner's premises, unrestrained by a leash except when transporting to vets office or where involved in formal controlled breeding program.
- D. Attack any person peaceably conducting himself in any place where such a person may lawfully be, or attack, chase or worry or kill any domestic animal, while such animal is in any place where it may lawfully be.
- E. Engage in habitual and loud howling, barking, crying, or whining or conduct as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- F. Cause damage to property of any person other than the owner of such dog.
- G. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while upon private property without the consent or approval of the owner of said property.
- H. Chase, jump upon or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put person in reasonable apprehension of bodily harm while off of the owner's premises.
- I. Defecate on any sidewalk, street, park, public area or private property of another person or on property owned by the Village of Bergen. When walking your dog, you are responsible to remove all feces from any property that is not personally owned by the dog owner.
- J. Run, at large, in any recreational area within the village.

**Section 4** - Proper outdoor shelters along with fresh water and food for all dogs must fall under the New York Agriculture and Markets Law Section 353-b. ( no owner of any animal in the Village of Bergen shall permit any premises, structures, or enclosures in which an animal is kept to be unclean or unsanitary).

All dogs, 6 months and older, must be licensed with the Town of Bergen Clerk in accordance with New York State Agriculture and Markets Law.

Any dog found running loose through the village will be seized by the Genesee County Dog Control Officer, or County Sheriff. An attempt to notify the owner will be made at the address shown on the most recent Village tax roll. The owner will have from 8AM to 6PM to claim the dog, at which time the Animal Control Officer will take the dog to the Genesee County Animal Shelter or other similarly licensed facility. Any dog owner who is located during this search will be required to provide proof of ownership, dog licensing, and shot records upon request. The owner may also be subject to the enforcement action in accordance with this local law if the Animal Control Officer determines a violation has occurred.

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 5 – 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 animal 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. And M.L. or this Local Law, then the officer can proceed before a court of law to obtain a warrant to enter the building and seize the dog by application of the Criminal Procedure Law Article 60-. 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 of Bergen, County or State Dog Control Officers or Police officers (see Agr. & M.L. Section 118).

## **Section 6 –Feral Cats**

A feral cat is a cat that has been born into wildness or has not had human interaction for a significant period of time and is self-sufficient. Under New York Agriculture and Markets Law Section 353-a it is a crime to knowingly harm feral cats. However, any person who feeds or gives care to a stray or feral cat(s), becomes the legal owner of said cat(s) under the law and is therefore responsible to spay or neuter the cat(s)

## **Section 7 – Wild Animals**

No person shall own, have, keep or maintain any wild, exotic, or non-domestic animal or reptile, within the Village, except wild animals allowed by the New York State Department of Environmental Conservation or other State or Federal permitting body, and in accordance with applicable State or Federal regulations and permit conditions, shall be allowed subject to the provisions of this chapter. Any permit required by the State for the keeping of any wild animal must be obtained by the owner and shown to any Animal Control Officer upon demand.

Any complaints or reports involving wild animals within the Village should be directed to a New York State Department of Environmental Conservation Certified Trapper, Village, Town, County and State Dog Control Officers and/or Police officers.

For purposes of this section, the definitions of “wild,” “exotic” or “non-domestic” animals or reptiles shall be those employed by the New York State Department of Environmental Conservation in Article 11 of the Environmental Conservation Law.

## **Section 8 – Dead Animal Removal**

The Animal Control Officer shall not be responsible for the removal of dead animals found on local and state highways. If a dead animal is found or observed outside the village the New York State Department of Transportation (NYSDOT) should be contacted and shall be responsible for removal. If a dead animal is found or observed on a Village road, the Village’s Highway Department should be contacted and shall be responsible for removal.

## **Section 9 – Animals Exposed to Rabies**

Any owner or person having charge or being in the possession of any such animal within the Village of Bergen known to have been bitten by an animal exposed to rabies or any wild animal, shall immediately confine such animal so bitten securely, and notify the animal control officer and New York State Public Health.

## **Section 10 – Violations/ Penalties**

It shall be a violation punishable as provided in Section 199 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;
- 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.

Fine and penalties for any violation of this Local Law will be in the amounts set forth in Section 199 Agr. & M.L.

Violations of this Local Law shall be prosecuted pursuant to the Penal Law (see Section 199.2 Agr. & M.L.)

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

Any person convicted of a violation of this local law shall be liable to a penalty of fifty dollars (\$50.00) for the first violation, one hundred dollars (\$100.00) for the second violation within five (5) years, and one hundred and fifty dollars (\$150.00) for the third violation within five (5) years and for any subsequent violations within a five (5) year period, the fine shall increase by fifty dollars (\$50.00) for each violation. These violations will be upheld with in a local court of law.

### **Section 11– Complaints about the Conduct of Animals**

- A. Complaint by an Individual: Any person claiming a violation of this law may make a signed, written complaint to the Village of Bergen or the Genesee County Animal Control Officer. Such complaint shall specify the objectionable conduct of the animal, the date thereof, damage caused, description of the animal, the name and address of the owner or the person harboring such animal, and pictures if available.
- B. Upon receipt of the written, signed complaint, the Animal Control Officer will investigate the complaint, and if the complaint is found to be credible, the animal control officer will notify the owner of the complaint and investigation results by registered letter. This will be a warning prior to the first violation. Failure to accept the letter does not void the notification.
- C. If the problem is not rectified, the animal control officer will issue a violation notice with a ticket for appearance in front of the local justice court.
- D. Complaint by a Public Officer: If the Animal Control Officer or State Officer or any other Village Officer has reported a violation of this law, a violation notice with a ticket for appearance in front of the local justice court will be issued without warning notice. The Animal Control Officer or Code Enforcement Officer as designated by the Village Board may enforce the provisions of this law and the New York State Agriculture and Markets Law.

### **Section 12 – Liability**

No employee of the Village of Bergen shall render himself personally liable for any damage that may accrue to a person's property as a result of any act required in the discharge of his duties under this Article.

### **Section 13 – Severability**

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

### **Section 14 – Effective Date**

This Local Law shall go into effect as soon as it is filed with the Secretary of State.

I, Cortney W. Gale, Village Administrator of the Village of Bergen, County of Genesee and State of New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Board of Trustees of the Village of Bergen on the 14<sup>th</sup> day of November, 2018 with the original now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.