

## Chapter 55. Animals

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

### Article I. Control of Dogs

[Adopted 7-6-1978 by L.L. No. 1-1978]

#### § 55-1. Purpose.

The purpose and intent of this article shall be to preserve the public peace and good order of the Town of Eaton, Madison County, New York, to contribute to the public welfare and to preserve and protect of the property and person of the inhabitants of said Town by declaring and enforcing certain regulations and restrictions on activities of dogs and owners of dogs within the township.

#### § 55-2. Exclusions.

[Amended 6-13-1988 by L.L. No. 1-1988]

This article shall not apply to dogs owned by such persons or confined to such societies, hospitals or institutions as defined by Article 7, § 107 of the Agriculture and Markets Law.

#### § 55-3. Definitions.

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

##### **AT LARGE**

Any dog shall be deemed at large when it is off the property of its owner and not under restraint.

##### **DOG**

Any dog, both male and female, whether such female dog is spayed or not.

##### **OWNER**

Any person who owns, keeps, harbors or has the care, custody or control of a dog. Dogs owned by minors shall be deemed to be in the custody and control of the minor's parents or other head of the household where the minor resides.

##### **RESTRAINT**

A dog which is:

[Amended 11-7-1988 by L.L. No. 4-1988]

- A. Controlled by a leash and not on the premises of another without consent;
- B. In the presence of a competent person and obedient to that person's commands and not on the premises of another without consent;
- C. On or within a vehicle being driven or parked on the street;
- D. Within the property limits of its owner or keeper; or
- E. Upon the premises of another with the consent of such other person.

## § 55-4. Dog Control Officer.

[Added 6-11-1988 by L.L. No. 1-1988p; 12-15-1997 by L.L. No. 4-1997]

The position of the Dog Control Officer may be created by the Town Board of the Town of Eaton, and such Dog Control Officer shall have all of the powers of a peace officer in the execution of this article and in the execution of Article 7 of the Agriculture and Markets Law, including the service of summons, and the service and execution of any other order of process. Every dog seized by the Dog Control Officer shall be maintained, redeemed, sold or disposed of in accordance with Article 7 of the Agriculture and Markets Law. The Dog Control Officer shall have the power to issue appearance tickets or, in lieu thereof, uniform appearance tickets or, in lieu thereof, uniform appearance tickets and simplified informations.

## § 55-5. Restrictions.

- A. No owner shall permit or allow a dog to run at large within the Town of Eaton, unless such dog shall be restrained as provided in Subsection **D** herein.
- B. No dog shall be permitted to cause damage or destruction to property or commit a nuisance or to defecate upon the premises of a person, other than to or upon premises of the dog's owner or the premises of another person with the consent of such other person.  
[Amended 6-13-1988 by L.L. No. 1-1988]
- C. No owner shall keep or harbor a dog which howls or barks so as to disturb the peace and quiet of other persons.
- D. No dog shall be permitted to chase or otherwise harass any person in such manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury except in defense of property or inhabitants.
- E. No dog shall be permitted to chase or bark at moving motor vehicles, bicycles, animals or snowmobiles.
- F. No unspayed female dog in season shall be permitted to be outside a building or a fenced enclosure, except that the owner may exercise such dog while on a securely fastened leash not more than six feet long.
- G. No owner shall fail to provide dogs with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and with humane care and treatment.
- H. Except as otherwise provided in § 55-2, all dogs owned or harbored in the Town of Eaton shall be licensed as provided by Article 7 of the Agriculture and Markets Law. The fact that a dog is without a license tag attached to a collar shall be presumptive evidence that the dog is unlicensed.  
[Added 6-13-1988 by L.L. No. 1-1988]

## § 55-6. Additional license fees.

[Amended 6-13-1988 by L.L. No. 1-1988; 6-12-2006 by L.L. No. 2-2006]

In addition to the fee imposed in Article 7 of the Agriculture and Markets Law for the dog licenses required therein, there shall be imposed by the Town of Eaton an additional fee for each license issued in such amounts as are allowed under the Agriculture and Markets Law and determined from time to time by resolution of the Town Board.

## § 55-7. Violations of restrictions.

- A. Any person who observes a dog violating or which is being permitted to violate any of the restrictions set forth in § 55-5 herein may file a complaint, signed under oath, with the Town Justice of the Town of Eaton specifying the violation, the date thereof, damage, if any, caused, a description of the dog and name and residence, if known, of the owner or other person harboring such dog.
- B. Upon receipt by the Town Justice of any complaint against the conduct of any particular dog or the owner thereof, the Town Justice shall, upon a three-day notice, summon the alleged owner or other person

harboring said dog to appear in person before him to answer to said complaint. If the summons is disregarded, the Justice may permit the filing of an information and issue a warrant for the arrest of such person.

- C. Upon observing a violation of either § **55-5** of this article or a violation of any provision of Article 7 of the Agriculture and Markets Law, the Dog Control Officer may issue an appearance ticket, uniform appearance ticket or uniform appearance ticket and simplified information directing the owner of the dog to appear in Town Court.  
[Added 6-13-1988 by L.L. No. 1-1988]

## § 55-8. Penalties for offenses.

[Amended 12-15-1997 by L.L. No. 4-1997]

Except as otherwise provided in § 119 of the Agriculture and Markets Law, a violation of the article shall be deemed an offense and a violation thereof shall be punishable by a fine of not more than \$250 or imprisonment not to exceed 15 days, or both, for each violation.

## § 55-9. Additional civil penalties.

- A. Any violation of the article observed by or acted upon by the Dog Control Officer shall subject the owner of such dog to civil penalties which shall be in addition to or instead of such other penalty or fine as may be provided for in this article or pursuant to Article 7 of the Agriculture and Markets Law.
- B. Any owner found guilty of a violation of § **55-5** of this article or of any provision of Article 7 of the Agriculture and Markets Law shall, in addition to any fine paid pursuant to either § **55-8** of this article or any provision of Article 7 of the Agriculture and Markets Law, pay to the Town an additional civil penalty of \$15. In the event that an owner is found guilty of a second violation within one year of either § **55-5** of this article or of any provision of Article 7 of the Agriculture and Markets Law, such civil penalty shall be \$25.  
[Amended 6-13-1988 by L.L. No. 1-1988]

## Article II. Licensing and Identification of Dogs

[Adopted 12-9-2010 by L.L. No. 3-2010<sup>[1]</sup>]

[1] *Editor's Note: This local law provided that it would apply to all dog licenses issued by the Town on and after 1-1-2011.*

## § 55-10. Purpose.

The purpose of this article is to provide for the identification and licensing of dogs, so as to aid in the control and protection of the dog population and the protection of persons, property and domestic animals within the Town of Eaton.

## § 55-11. Applicability.

This article shall apply to all areas of the Town of Eaton and to all dogs harbored within the Town of Eaton.

## § 55-12. Definitions.

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

### **ADOPTION**

The delivery to any natural person 18 years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.

### **CLERK**

The Town Clerk of the Town of Eaton.

**DETECTION DOG**

Any dog that is trained and is actually used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband, or any dog undergoing training for such purposes.

**DOG**

Any member of the species canis familiaris.

**DOG CONTROL OFFICER**

Any individual appointed by the Town Board of the Town of Eaton to assist in the enforcement of this article and/or Article 7 of the New York State Agriculture 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 Eaton to assist in the enforcement of this article.

**GUIDE DOG**

Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.

**HARBOR**

To provide food and/or shelter to any dog.

**HEARING DOG**

Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

**IDENTIFICATION TAG**

A tag issued by the Town of Eaton which sets forth an official identification number, together with the words "Town of Eaton" and "State of New York," the telephone number for the Town Clerk of the Town of Eaton, and any other information as may be required by the provisions of this article.

**IDENTIFIED DOG**

Any dog carrying an identification tag as provided in this article.

**OFFICIAL IDENTIFICATION NUMBER**

A series or combination of letters, numbers and/or symbols approved and furnished by the Town of Eaton.

**OWNER**

Any person who keeps or harbors any dog.

**OWNER OF RECORD**

The person in whose name any dog was last licensed pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law, except that if any license is issued upon 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, or other legal entity.

**PERSON WITH A DISABILITY**

Any person with a disability as that term is defined in Subdivision 21 of § 292 of the New York State Executive Law.

**POLICE WORK DOG**

Any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work.

**RECOGNIZED REGISTRY ASSOCIATION**

Any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the Commissioner of Agriculture and Markets.

#### **SERVICE DOG**

Any dog that has been or is being individually 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.

#### **THERAPY DOG**

Any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

#### **WAR DOG**

Any dog which has been honorably discharged from the United States armed services.

#### **WORKING SEARCH DOG**

Any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the Department of Agriculture and Markets; provided, however, that such services provided by said dog shall be performed without charge or fee.

### **§ 55-13. Licensing of dogs; rabies vaccination requirement.**

#### **A. Licensing of dogs.**

- (1) Except as otherwise specifically provided in this article or in Article 7 of the New York State Agriculture and Markets Law, all dogs at large, and all dogs four months of age or older, shall be licensed in accordance with the provisions of this article.
- (2) All applications for a dog license shall be made to the Eaton Town Clerk.
- (3) The application shall state the sex, actual or approximate age, breed, color, and official identification number of the dog, and other identification marks, if any, and the name, address and telephone number of the owner.
- (4) The application shall be accompanied by the license application fee, any applicable license surcharges, and any such additional fees as may be established from time to time by resolution of the Eaton Town Board. Each license application shall be accompanied by a certificate of rabies vaccination or a statement from a licensed veterinarian in lieu thereof that such vaccination would endanger the dog's life. 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 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 as set forth in this article.
- (5) Upon validation by the Town Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made of the fees paid therefor, or any portion thereof.
- (6) The Town Clerk shall provide an identification tag and a copy of the license to the owner, and retain the license and all documentation supporting the issuance of the license in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration. If the application for a dog license (or renewal) is made by mail and the owner requests a validated copy, the owner shall provide a stamped, self-addressed envelope for that purpose.
- (7) 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.
- (8) The Town of Eaton hereby establishes a common renewal date of the 30th day of June for all dog licenses issued pursuant to this article. Except as hereafter provided, each license issued by the Town

of Eaton shall be valid for the period beginning on the date of its issuance and ending on the next occurring 30th day of June. All licenses issued during the month of June shall expire on the 30th day of June in the following calendar year. Licenses issued by the Town of Eaton between January 1, 2011, and May 31, 2011, shall expire June 30, 2012.

B. Purebred license.

- (1) 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 or in addition to the individual licenses required by this article. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.
- (2) Such application shall be made to the Town Clerk. Each purebred license application shall be accompanied by a certificate of rabies vaccination for each dog listed in the application, or a statement from a licensed veterinarian in lieu thereof that such vaccination would endanger the life of the dog or dogs.
- (3) 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, and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.
- (4) The application shall be accompanied by the license application fee, any applicable license surcharges, and any such additional fees as may be established from time to time by resolution of the Eaton Town Board.
- (5) Upon receipt of the foregoing items, the Clerk shall assign a license number, which shall be reserved for the sole use of the named owner, shall issue a purebred license and shall provide a copy of the purebred license to the owner. Once a purebred license has been issued, no refund of any fees paid upon the application therefor shall be made.
- (6) No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such individual dog shall become subject to the licensing provisions of this article.

C. Relocation/relicensing.

- (1) The owner of any dog currently licensed in another municipality who relocates his place of residence to the Town of Eaton shall apply for and obtain a Town of Eaton dog license for each dog owned.
- (2) Any dog adopted from an incorporated humane society or similar incorporated dog protective association must be licensed in the Town of Eaton prior to being released from said shelter.

## § 55-14. License fees.

- A. A fee schedule for all license fees and other fees to be charged and collected pursuant to this article shall be established by resolution of the Eaton Town Board. Such fee schedule may thereafter be amended from time to time by further resolution of the Town Board. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected prior to the issuance of the license for which the fees are due.
- B. All fees established by the Town Board shall be in accordance with the following limitations:
- (1) The application fee for an unspayed or unneutered dog shall be at least \$5 more than the application fee for a spayed or neutered dog.
  - (2) There shall be a surcharge fee in an amount not less than \$1 for spayed and neutered dogs, and not less than \$3 for unspayed or unneutered dogs, for the purpose of supporting animal population control efforts.
  - (3) A surcharge fee in an amount not less than \$3 shall be imposed upon each purebred license for the purpose of supporting animal population control efforts.

- (4) A surcharge fee in an amount not less than \$5 shall be imposed upon a dog or purebred license for a dog identified as unlicensed during an enumeration conducted pursuant to Article 7 of the New York State Agriculture and Markets Law.
- C. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each license for any such dog shall be conspicuously marked by the Clerk, "guide dog," "hearing dog," "service dog," "working search dog," "war dog," "detection dog," "police work dog," or "therapy dog," as applicable.

## § 55-15. Disposition of license fees and fines.

Except as otherwise provided in Article 7 of the New York State Agriculture and Markets Law, and/or under any other provision of this article, all fees, fines and/or penalties collected upon the application for a license and/or the prosecution of any violation of this article shall be the property of the Town of Eaton and shall be paid to the Town Supervisor.

## § 55-16. Identification of dogs.

- A. Each dog licensed pursuant to this article shall be assigned, at the time the dog is first licensed, a permanent official identification number. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.
- B. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Should an official Town of Eaton dog tag be lost, a new tag will be issued upon payment of the fee prescribed by resolution of the Town Board.
- C. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been 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. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.
- E. The size, shape and form of imprints on identification tags and purebred license tags shall be prescribed by the Town Board, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this article.

## § 55-17. Change of ownership; lost, stolen or deceased dog.

- A. In the event of a change in the ownership of any dog which has been assigned an official Town of Eaton identification number or change 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 a violation of this section until such filing is made, or until the dog is licensed in the name of the new owner.
- B. If any dog which has been assigned an official identification number 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 § 55-17A of this article, and/or of any violation of Article 7 of the New York State Agriculture and Markets Law if committed after such report is filed.
- C. In the case of a dog's death, the owner of record shall so notify the Town Clerk, in writing, either prior to renewal of licensure or upon the time of such renewal as set forth in this article. Failure to notify the Town

Clerk of the death of a dog as so required herein shall constitute a violation, and the owner of record shall be liable for such violation.

## § 55-18. Penalties for offenses.

- A. It shall be a violation, punishable as provided in § **55-18B** of this article, for:
- (1) Any owner to fail to license any dog;
  - (2) Any owner to fail to have any dog identified as required by this article;
  - (3) Any person to knowingly affix to any dog any false or improper identification tag;
  - (4) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose required pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law;
  - (5) Any person to furnish any false or misleading information on any form required to be filed with the Town of Eaton pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law;
  - (6) The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog;
  - (7) The owner of a dog to fail to notify the Town Clerk of any change of ownership or address as required by this article.
- B. It shall be the duty of the Dog Control Officer of the Town of Eaton to prosecute an action or proceeding against any person who has committed within the Town of Eaton any violation of this article and/or Article 7 of the New York State Agriculture and Markets Law. The Dog Control Officer may elect either to prosecute such action as a violation under the penal law or as a civil action to recover a civil penalty. A violation of this section shall be punishable, subject to such an election, either:
- (1) By a fine or penalty of not less than \$25, and not more than \$250, except that:
    - (a) Where the person was found to have violated this section and/or Article 7 of the New York State Agriculture and Markets Law within the preceding five years, the fine may be not less than \$50, and;
    - (b) Where the person was found to have committed two or more such violations within the preceding five years, the subsequent violation shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both.
  - (2) A defendant charged with a violation of any provision of this article may plead guilty to the charge in open court. He may also submit to the Magistrate having jurisdiction, in person, by duly authorized agent, or by mail, a statement:
    - (a) That he waives arraignment in open court and the aid of counsel;
    - (b) That he pleads guilty to the offense charged;
    - (c) That he elects and requests that the charge be disposed of and the fine or penalty fixed by the court;
    - (d) Of any explanation that he desires to make concerning the offense charged; and
    - (e) That he makes all statements under penalty of perjury. Thereupon the Magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court; provided, however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If, upon receipt of the aforesaid statement, the Magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said Magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.
  - (3) Each day that a person is in violation of any provision of this article shall constitute a separate offense, with each such offense being subject to the fines and penalties set forth herein.