

Local Law 3-2021

LOCAL LAW RELATING TO THE LICENSING, CONTROL, CONFINING AND LEASHING OF DOGS IN THE TOWN OF FREEDOM AND REPEALING LOCAL LAW 2-2021 (“LOCAL LAW RELATING TO THE LICENSING, CONTROL, CONFINING AND LEASHING OF DOGS IN THE TOWN OF FREEDOM”).

Pursuant to Article 7 of the New York State Agriculture and Markets Law and Section 10(1)(ii)(d)(3) of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Freedom, County of Cattaraugus, New York does enact the following Local Law:

Section 1: Title

This local law 3 of 2021 shall be known and may be cited as the "Town of Freedom Dog Control Law". Local law 3-2021 shall be applicable within the confines of the municipal boundaries of the Town of Freedom.

Section 2: Definitions

All other words and phrases used in this article shall, for the purpose of this article, have the meanings respectively ascribed to them by § 108 of the Agriculture and Markets Law.

As used in this article, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

1. AGRICULTURE AND MARKETS LAW: The Agriculture and Markets Law of the State New York in effect as of the effective date of this local law, and as amended at any time by the State of New York.
2. CONFINED: Securely restrained and kept on the owners premises, whether 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 or any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is secured in a crate or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.
3. DOG: Any member of the species canis familiaris.
4. IDENTIFIED DOG: Any dog carrying an identification tag issued by the licensing municipality which set forth the identification number, name of municipality, and other such information that shall be required by this local law.
5. UNIDENTIFIED DOG: Any dog found not wearing an identification tag as required by this local law.
6. DOG CONTROL OFFICER: Any individual appointed by the Town to assist in the enforcement of this article or the provisions of the 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 to assist in the enforcement of this article or the provisions of the Agriculture and Markets Law.

7. ENCLOSURE: A fence of at least six feet in height, or other structure, such as a pen, forming or causing an enclosed area suitable to prevent the entry of young children, or any part of their bodies, and suitable to confine vicious dogs in conjunction with other measures which may be taken by the owner or the keeper, such as the tethering of a vicious dog. Such other structure shall be securely enclosed and locked and designed with secure sides, top and bottom, and shall be designed to keep the animal from escaping therefrom. If the pen or other structure has no bottom secured to the sides, the sides must be embedded in the ground no less than one foot.
8. HARBOR: To provide food, sustenance or shelter to any dog.
9. IMPOUNDED: Taken into custody or the public pound used by the Town of Freedom.
10. LEASHED or RESTRAINED BY A LEASH: The dog is equipped with a collar or harness to which is attached a leash not to exceed six feet in length, both collar or harness and the leash to be of sufficient strength to restrain the dog, and which leash shall be held by a person having the ability to control and restrain the dog by means of the collar or harness and the leash.
11. OWNER: Any person who harbors or keeps any dog.
12. PERSON: A natural person or any legal entity, including but not limited to a corporation, partnership or trust.
13. PUBLIC PROPERTY: A Premises not owned by a private individual or company, including but not limited to premises and/or facility owned by a State and/or local government or school district, a property, premises or facility owned by the Town or any government used for recreational purposes such as parks, playgrounds, trails, public access areas, and/or any street, highway or sidewalk.
14. RUN AT LARGE: Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to run at large if it is:
 - (a) A service or guide dog actively working as trained;
 - (b) A police work dog in use for police work; or
 - (c) Accompanied by and under the immediate supervision and control of the owner.
 - (d) Accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on un-posted land or on posted land with the permission of the owner of the land.
15. HABITUAL BARKING: Barking for repeated intervals of at least five minutes, with less than one minute of interruption. The barking must also be audible off the owner's or caretaker's premises.
16. TOWN: The area within the municipal boundaries of the Town of Freedom.

Section 3: Purpose

The purpose of this local law shall be to contribute to the public welfare, safety and good order of its people by establishing certain regulations and restrictions on the licensing, identification, control, protection, confining and leashing of dogs and owners of dogs that are consistent with the rights and Privileges of other residents of the Town.

Section 4: Dog Control Officer

A Dog Control Officer shall be appointed for the Town of Freedom for the purposes of enforcing this local law and any amendments hereto, for the purposes of enforcing any other local law, ordinance, rule or regulation so imposed by the Town and for enforcing Article 7 of the Agriculture and Markets Law; Dog control officer shall have all the powers and duties contained in Article 7 of the Agriculture and Markets Law.

Section 5: Restrictions

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

1. Run at large (refer to section 2 for “run at large” definition);
2. Engage in habitual and loud howling, barking, crying or whining or conduct as to reasonably and habitually disturb the comfort or repose of any person other than the owner of such dog (refer to section 2 for “habitual barking” definition);
3. Uproot, dig or otherwise damage any vegetable, lawns, flowers, garden beds, or other property without the consent or approval of the owner;
4. Chase, jump upon or at or otherwise harass any reasonable person in such manner as to cause intimidation or fear of bodily harm;
5. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while on a public street, highway; or place, or upon private property without the consent or approval of the owner of such property;
6. Create a nuisance by defecating, urinating or digging on public property, or on private property without the consent or approval of the owner of such property;
7. If a female dog, when in heat, be off the owner's premises, unrestrained by a leash;
8. Enter public buildings, restaurants, or stores, except service dogs properly trained to assist persons, when such dogs are actually being used by persons for the purpose of aiding them.

Section 6: Potentially Rabid Dog

1. The Dog Control Officer or any peace officer is hereby authorized to seize or direct the confinement of any dog which is reported to have attacked or injured a human being or domestic animal. Any such dog shall be confined by the owner of such dog or by the dog control officer for such length of time as may be necessary for the purpose of determining whether such dog is affected by rabies and, if so affected, it may be destroyed.

2. The owner of such dog shall, upon demand, deliver the possession of such dog to the Dog Control Officer, or any officer authorized to seize same, and shall, upon demand, pay to the Town the cost of confinement and treatment of the dog.

Section 7: Dangerous Dogs

1. A Dog Control Officer or police or peace officer who has probable cause to believe that a dog is dangerous, as defined by the Agriculture and Markets Law, shall immediately demand that possession of the dog be relinquished to the Dog Control Officer or a police or peace officer;
2. Article 7, Section 123 of the Agriculture and Markets Law, or any current article and section of the Agriculture and Markets Law dealing with Dangerous Dogs, shall hereby be adopted as the superseding authority for the process of dealing with and determining the status of a dog believed to be a dangerous dog **with the exception of any fines and penalties ordered by the court;**
3. Any person convicted of a violation of Article 7, Section 123 of the Agriculture and Markets Law, or any current article and section of the Agriculture and Markets Law dealing with Dangerous Dogs, shall be guilty of a misdemeanor offense punishable by the following:
 - a. **FIRST OFFENSE:** A fine of not less than \$100.00 and not exceeding \$400.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding one hundred eighty (180) day or both;
 - b. **SECOND OFFENSE:** A fine of not less \$200.00 and not exceeding \$800.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding two hundred forty (240) days or both; a second offense conviction shall be a person convicted of a violation of this law on two separate occasions, of which both acts were cited within a period of one (1) year;
 - c. **THIRD AND SUBSEQUENT OFFENSE:** A fine of not less than \$400.00 and not exceeding \$1,500.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding three hundred sixty five (365) days or both; A third and subsequent offense conviction of this local law shall be a person convicted of a violation of this local law on three separate occasions, of which each of the acts were cited within a period of three (3) years;
 - d. In addition to the penalty set forth in this section or any other section of this local law and any other remedy available to the Town, the Town may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article and, in addition to the criminal penalties imposed by the court, may maintain an action to recover civil penalties and costs related to the forced removal of any substance violating this local law.

4. The owner shall notify the Dog Control Officer immediately, but in no event more than 24 hours, if a dangerous dog is loose, unconfined, has attacked any other animal, has attacked a human being or has died.
5. No person shall possess with intent to sell, offer for sale, transfer, give away, breed, buy, attempt to buy, or receive as a gift within the Town any dangerous dog.
6. Persons convicted of a violation of this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any dog for the protection of the public and such other expenses as may be required for the destruction of such dog.

Section 8: Licensing

1. Exemptions from Licensing

- A. Exemption from licensing and identification pursuant to this local law shall apply to dogs in animal hospitals and individuals or corporations licensed as a Class A Dealer under the Federal Laboratory Animal Welfare Act;
- B. Dogs of any age which are held at a shelter pursuant to a contract or agreement with the Town of Freedom or duly incorporated society for the prevention of cruelty to animals, humane society or dog protective association are exempt from licensing and identification pursuant to this local law;
- C. Exemption regarding Visitors – visitors who (a) bring their dog(s) to the Town AND (b) reside within the Town for more than 30 days may be required to either:
 - (1) Provide satisfactory proof (i.e., license, dog tag) that their dog is licensed in another jurisdiction; or
 - (2) Provide satisfactory proof that their dog is exempt from licensure; or
 - (3) Obtain a dog license in accord with this law.

2. Dog Tags

- A. All dog tags issued by the Town of Freedom shall have the following information placed on them:
 - (1) The Town’s name as the licensing municipality;
 - (2) A Reference to the State of New York;
 - (3) The Town’s phone number as contact information; and
 - (4) The following shall also be placed on the dog’s tag:
 - a.) Identification number.

3. Licensing Requirements

- A. Owners of dogs four (4) months or older are required to apply for a license for their dogs.
- 1.) Licenses shall be issued by The Town Clerk during the Town Clerk's regular business hours.
 - 2.) The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk, or as the Town may authorize by contract, 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 Freedom.
 - 3.) The Town Clerk is required to keep a copy of each issued dog license, and is to provide the Department of Agriculture and Markets a copy of the license, upon said Department's request.

4. Licensing Fees

- A.) The Fee Schedule is established as follows:
- 1.) Spayed and Neutered Dogs - \$6.00 local and \$1.00 surcharge for the state = \$7.00 total.
 - 2.) Unspayed or Unneutered Dogs - \$12.00 local and \$3.00 surcharge for the state = \$15.00 total.
 - 3.) Dog Enumeration Surcharge - In addition to the license fee imposed by the Town of Freedom, each applicant shall pay a surcharge in the amount of \$5.00, which shall be retained by the Town and used to defray the cost of enumeration of dogs within the Town of Freedom. This is an initial, one-time fee, per dog. It is not an annual fee.
 - 4.) Purebred Dog Breeder's Licenses - These are as follows:
 - a.) 1 to 10 dogs: 50.00 plus \$3.00 per the actual number of dogs for the state.
 - b.) 11 to 25 dogs: \$95.00 plus \$3.00 surcharge per the actual number of dogs for the state.
 - c.) 26+ dogs: \$175.00 plus \$3.00 surcharge per actual number of dogs for the state.
 - 5.) The surcharges listed above are required of each applicant for a dog license under Section 110(3) for dog population control is required. Said surcharge shall be remitted to the Department of Agriculture and Markets for Deposit in the population control fund.
 - 6.) A late fee shall be charged for any owner or person harboring a dog who fails to renew any license for any dog or dogs licensed under this Local Law as follows:
 - i. Any dog not licensed within sixty (60) days of the renewal date shall result in the owner or person harboring such dog being charged a late fee of \$10.00;
 - ii. Any dog not licensed within ninety (90) days of the renewal date shall result in the owner or person harboring such dog being charged a late fee of an additional \$10.00 (\$10.00 + \$10.00 = \$20.00);

- iii. Any dog not licensed within one hundred and twenty (120) days of the renewal date shall result in the owner or person harboring such dog being charged a late fee of an additional \$10.00 ($\$10.00 + \$10.00 + \$10.00 = \30.00);
- 7.) The Town of Freedom shall maintain the right to change the above fees by a resolution of the Town Board.
- 8.) Refunds will not be issued by the Town of Freedom.

5. Fee Exemptions

- A.) Exempt from the requirement to pay a licensing fee are dog license applications submitted for guide dogs, hearing dogs, service dogs, war dogs, working search dogs, detection dogs, police dogs, and therapy dogs.

6. Term of Licenses and Renewals

- A.) Each license issued shall be valid for a period of one year from the date of issuance, and shall be deemed expired on the first day of the succeeding month in which the dog was licensed.
- B.) License renewals require paying the appropriate fees, but do not require the issuance of a new identification number or dog tag.
- C.) In those cases where a metal dog tag may not be immediately available for issuance, upon properly filling out the application and paying the appropriate fees the Town Clerk may issue a 30 day Temporary paper license.

7. Identification of Dogs

- A.) All dogs within the Town of Freedom are required to wear their dog license at all times, unless otherwise exempt;
- B.) Each dog license shall bear an identification number issued by the Town;
- C.) A dog participating in a dog show within the Town of Freedom shall be temporarily exempt from the above identification requirement, but said exemption only applies during participation in the dog show.

8. Change in Ownership; Lost or Stolen Dogs

- A.) Notification regarding change of dog ownership or that a dog has been lost or stolen shall be provided to the Town Clerk within ten (10) days and shall be noted in the license records.
- B.) Notification of the death of a dog shall be provided to the Town Clerk prior to the expiration of the dog's license.

Section 9: Seizure and Impoundment

- 1.) The Dog Control Officer, at his/her discretion, may seize-and impound any dog which is not licensed, whether on or off the owner's premises, at the Town's dog kennel, or at a kennel under contract with the Town;
- 2.) The Dog Control Officer, at his/her discretion, may seize and impound any dog which is found to be in violation of this local law or found to be in violation of Article 7 of the Agriculture and Markets law;
- 3.) Upon the seizure of an easily identified and/or licensed dog, the owner of such dog shall be notified of the facts of seizure and impoundment of the dog, and the procedure for redemption;
- 4.) Procedure for Redemption: In order to redeem a seized dog, proof of current license is required and shall be provided to the Dog Control Officer and any and all kenneling and veterinary fees must be paid in full at the time of redemption;
- 5.) The redemption period for an identified dog shall be ten (10) consecutive days, and the redemption period for an unidentified dog shall be five (5) consecutive days from the day of seizure;
- 6.) Any owner shall forfeit title to any dog unredeemed at the expiration of the redemption period and the dog shall be made available for adoption or euthanasia, subject to the provisions of the Agriculture and Markets Law.
- 7.) Every dog seized and impounded shall be properly cared for, sheltered, fed and watered;
- 8.) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees, veterinary fees, adoption fees, or any other incurred fees or charges set forth by this local law or other resolution of the Town whether or not such owner chooses to redeem his/her dog;
- 9.) No action shall be maintained against the Town, any dog control officer, or peace officer when acting pursuant to his/her special duties, or any other agent or officer of the Town or person under contract to said Town to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law or the Agriculture and Markets Law.

Section 10: Kenneling Fees

- 1.) Seized and impounded dogs may be redeemed by producing proof and licensing and identification pursuant to provisions of this local law and to the provisions of Article 7 of the Agriculture and Markets law and by paying the following fees:
 - a.) Any and all fees incurred in the caring for and kenneling of dog, including the impoundment fees/charges, veterinary fees, and the \$150 pick-up/drop-off fee.
- 2.) The Town of Freedom shall maintain the right to change the above fees by resolution of the Town Board.

Section 11: Penalties for Offenses

- 1.) Any person convicted of a violation of this Local Law, **with the exception of a violation of Section 7: Dangerous Dogs**, shall be guilty of a misdemeanor offense punishable by the following:
 - a.) **FIRST OFFENSE:** A fine of not less than \$75.00 per violation; proof of licensing of dog shall be required;
 - b.) **SECOND OFFENSE:** A fine of not less than \$100.00 per violation; proof of licensing of dog shall be required; a second offense conviction shall be a person convicted of a violation of this local law on two separate occasions, of which both acts were cited within a period of two (2) years;
 - c.) **THIRD AND SUBSEQUENT OFFENSE:** A fine of not less than \$125.00 per violation; proof of licensing of dog shall be required; A third and subsequent offense conviction of this local law shall be a person convicted of a violation of this local law on three separate occasions, of which each of the acts were cited within a period of three (3) years;
 - d.) In addition to the penalty set forth in this section or any other section of this local law and any other remedy available to the Town, the Town may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article and, in addition to criminal penalties imposed by the court, may maintain an action to recover civil penalties and costs related to the forced removal of any substance violating this local law.

Section 12: Appearance Ticket

This section hereby provides for the issuance of an appearance ticket pursuant to the provisions of Section 124 of the Agriculture and Markets Law to assist in the enforcement of the Agriculture and Markets Law.

Section 13: Complaint

Any person who observes a dog in violation of this local law may contact the Town of Freedom Dog Control Officer and file a complaint under oath or may file a complaint under oath with a Constable or Justice of the Town of Freedom specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this local law.

Section 14: Incorporation of Agriculture and Markets Law

All sections and provisions of Article 7 of the Agriculture and Markets Law including terms and definitions are hereby incorporated for reference and clarification of meaning of definitions.

Section 15: Enforcement

Failure to pay the fine imposed by a Court of Competent jurisdiction shall result in the Town obtaining a judgment in the amount of the fine, including penalties and interest. Said Judgment shall be filed by the Cattaraugus County District Attorney against the dog owner(s) in the Cattaraugus County Clerk's Office.

Section 16: Severability

Should any part of this local law be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be restricted in its operation and effect to the part specifically determined to be invalid.

Section 17: Repeal

Local Law 2-2021 of the Town of Freedom is hereby repealed as of the effective date of this Local Law 3-2021; such repeal shall not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes place.

Section 18: Effective Date

This local law shall take effect immediately upon its filing in the office of the Secretary of State.