

Chapter 175. Animals

Article I. Dog Control

[Adopted 2-4-1980 (Art. 16 of the 1989 Code); amended 1-1-1985; 8-4-1986]

§ 175-1. Legislative intent.

It appearing that dogs in the Town of Busti have, in some instances, been allowed to cause annoyance and damage to the person and properties of others, and it appearing further that dogs properly cared for serve a useful purpose, the Town Board of the Town of Busti enacts the following ordinance to preserve the relationship between a dog and his master and, at the same time, to protect the health, safety and property of others from annoyance and damage caused by dogs.

§ 175-2. Definitions.

As used in this article, the following words shall have the following respective meanings:

DOG CONTROL OFFICER

The person authorized by the Town Board, from time to time, by resolution, to enforce the provisions of this article. A Dog Control Officer shall have all of the powers of a constable or other peace officer in the execution of the provisions of this article, including service of a summons, the service of an appearance ticket pursuant to and in accordance with the Agriculture and Markets Law of the State of New York, and the service and execution of any other order or process, notwithstanding any provision of the Justice Court Act.

OWNER

Any person who is a licensed owner of a dog and any person who keeps, feeds or harbors a dog for over one week. The owner need not be a resident of the Town of Busti, but for a violation to occur the dog must be in the portion of the Town of Busti described in § 175-3 hereof.

§ 175-3. Area of Town to which applicable.

Except where otherwise indicated, this article shall apply to that portion of Busti bounded as follows:

Beginning at a point constituting the northwesterly boundary of the Village of Lakewood, at Chautauqua Lake; running thence westerly along Chautauqua Lake to the easterly boundary of the Town of North Harmony; running thence southerly along the easterly boundary of the Town of North Harmony to the center line of Hunt Road; running thence easterly to a point where the center line of Hunt Road and the center line of the Conrail right-of-way intersect; running thence northeasterly to a point at which the center line of the Conrail right-of-way and the Village of Lakewood's westerly boundary intersect; running thence northerly along the westerly bounds of the Village of Lakewood to the point or place of beginning.

§ 175-4. Restrictions.

It shall be unlawful for any owner of or any person harboring any dog to permit or allow such dog while in the Town of Busti to:

- A. Run at large without being restrained by an adequate collar and leash no longer than eight feet long or unless accompanied by its owner or a responsible person able to control the dog, except when on the owner's property or on the private property of another person with knowledge and consent of such other person. For the purposes of this article, a dog or dogs hunting in company with a hunter or hunters shall be considered as accompanied by its owner.
- B. Engage in habitual loud howling or barking or to conduct itself in such a manner as to habitually annoy any person other than the owner or person harboring such dog.
- C. Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- D. Chase or otherwise harass any person in such manner as reasonably to cause intimidation or to put such person in a reasonable apprehension of bodily harm or injury.
- E. Habitually chase or bark at motor vehicles.
- F. Defecate in such a way as to cause annoyance to persons other than the owner.
- G. To tip over ash cans or other devices used to contain refuse.
- H. Remain in the Town of Busti unless licensed in accordance with the New York State Agriculture and Markets Law.

§ 175-5. Female dogs.

It shall be unlawful for the owner of or person harboring any female dog to permit such dog to run at large when in heat, and such dog shall be confined to enclosed premises of such person during such period.

§ 175-6. Enforcement.

- A. This article shall be enforced by the Dog Control Officer or by the Town Police Department or any other enforcement officer.
- B. The Dog Control Officer or peace officer observing a violation of this article in his presence shall issue and serve an appearance ticket for such violation, which appearance ticket shall be in the form prescribed by the Agriculture and Markets Law of the State of New York and this article.

§ 175-7. Impoundment; violations.

Any dog which violates any of the provisions of this article shall be impounded and taken to such place as may be designated by the Town Board as a place of detention and shall thereby be properly fed and cared for at the expense of the Town until disposition thereof shall have been made in accordance with the provisions of this article.

§ 175-8. Seizure of licensed dogs.

In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and give the owner immediate notice by serving upon the owner an instrument, in writing, stating that the dog has been seized, indicating when, where and why

the dog was seized, and stating that the dog will be destroyed unless redeemed or a trial is demanded within seven days of the impounding of the dog. This provision shall apply to the Town of Busti in its entirety.

§ 175-9. Seizure of unlicensed dogs.

In the event that the dog seized does not bear a license tag or the owner is unknown, the Dog Control Officer or other law enforcement officer shall be authorized to destroy the dog seven days after impounding or to dispose of the dog by sale or other means, unless the owner redeems the dog, if permitted, or unless a trial is demanded by the owner within seven days of seizure. This provision shall apply to the Town of Busti in its entirety.

§ 175-10. Redemption.

[Amended 7-11-2022 by L.L. No. 5-2022; 10-3-2022 by L.L. No. 6-2022]

If the dog is to be redeemed after having been impounded pursuant to state law, rule or regulation or Town law or ordinance, the owner shall pay the Dog Control Officer a \$40 fee for the care of the dog while impounded plus an impoundment fee, as follows:

- A. Not less than \$10 for the first impoundment of any dog owned by that person;
- B. Not less than \$20 for the first 24 hours or part thereof and \$10 for each additional 24 hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or
- C. Not less than \$30 for the first 24 hours or part thereof and \$10 for each additional 24 hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

§ 175-11. Trial procedure.

- A. The owner of a dog who is issued an appearance ticket pursuant to § 175-6 herein may answer the same by registered or certified mail, return receipt requested, within five days of the violation hereunder provided in lieu of a personal appearance on the return date at the time and court specified in said appearance ticket.
- B. If the person charged with the violation admits to the violation as charged in the appearance ticket, he may complete the appropriate form on such appearance ticket and forward such form and appearance ticket to the office specified on such appearance ticket. Such appearance ticket shall set forth the schedule of penalties and fines for violations of this article, and a certified check or money order in the amount of the penalty for the violation charged shall be submitted with such answer.
- C. If the person charged with the violation denies part or all of the violation as charged in the appearance ticket, he may complete the appearance ticket likewise prescribed for that purpose and forward such appearance ticket, together with a certified check or money order in the amount of \$15, to the office of the court specified on such appearance ticket. Upon receipt, such answer shall be entered in the docket and a new return date established by said court officer. Such person shall be notified by return mail of the date and place of such return date and/or trial, and the security shall be returned upon appearance thereat. If a person shall fail to appear at a return date when such is provided for pursuant to this section, the security posted to secure such appearance shall be forfeited and a summons or a warrant of arrest may be issued pursuant to the Criminal Procedure Law. The person charged with a violation hereunder, should he or she request a trial as provided herein, shall pay for the care of the dog while impounded.

D. In the event that there is a violation of this article based upon an information and not an appearance ticket, and the owner of the dog denies a violation, he shall post bail of \$150, shall pay for the care of the dog while impounded, and shall demand, in writing, a trial. The Dog Control Officer or other law enforcement officer shall immediately proceed to file information with a Town Justice so that the matter will appear on the docket of the Town Justice Court as soon as possible. The rules of procedure and proof applicable in criminal actions shall apply.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 175-12. Forfeiture of title to dog.

If an impounded dog is not redeemed or a trial demanded within the time hereinbefore set forth, the owner shall forfeit title to the dog, and it may thereafter be sold by the Town or destroyed by the appropriate official hereinafter provided.

§ 175-13. Sale of impounded dog.

The Dog Control Officer is hereby authorized to sell any dog impounded at such price as he shall determine to be fair and shall deposit such sum in the general fund of the Town. The Town shall keep a record of all sales, and such records shall be open to public inspection. Such records shall be kept for one year.

§ 175-14. Dogs destroyed.

In the event that it becomes necessary to destroy a dog, the Dog Control Officer or other law enforcement officer shall arrange, through a veterinarian or the Dog Control Officer in his facilities, to humanely destroy and dispose of the dog. Any Dog Control Officer that destroys a dog must make a report in writing to the Town Clerk. This report will be kept on file for one year.

§ 175-15. Penalties for offenses.

A violation of this article shall be deemed an offense, and a person convicted of a violation shall be liable for a fine for a first violation of \$25; for a second violation, a fine of \$50; and for a third and subsequent violation, a fine of \$75. In addition, a dog found to be dangerous may be ordered securely confined or destroyed, in the discretion of the court.

§ 175-16. No compensation for dogs destroyed.

The owner, possessor or harbinger or any dog destroyed under the provisions of this article shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of the dog.

§ 175-17. Dog licenses.

[Added 8-25-2000 by L.L. No. 2-2000; amended 12-6-2010 by L.L. No. 2-2010]

A. License required. All dogs within the Town of Busti four months of age or older, unless otherwise exempted, shall be licensed. The owner of each dog required to be licensed shall obtain, complete and return to the Busti 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 Busti. Each license 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.

- B. Expiration of license. All dog licenses shall be valid for a period of one year, two years, or three years, at the owner's option, and shall expire at the end of the month one, two or three years from the date of issuance.
- C. License fees and manner of purchase.
 - (1) For a spayed or neutered dog, the following license fees shall apply:
 - (a) One-year: \$5.
 - (b) Two-year: \$10.
 - (c) Three-year: \$15.
 - (d) All fees include the assessment of a surcharge of \$1 for the purpose of carrying out a program of animal population control.
 - (2) For a dog that is not spayed or neutered, the following license fees shall apply:
 - (a) One-year: \$13.
 - (b) Two-year: \$26.
 - (c) Three-year: \$39.
 - (d) All fees include the assessment of a surcharge of \$3 for the purpose of carrying out a program of animal population control.
 - (3) A multiyear license shall be available only to dogs on a three-year rabies vaccination cycle.
 - (4) All licenses shall be purchased in person at the Town offices. There shall be no refund of fees.
 - (5) All license fees shall be used in funding the administration of the Dog Control Law of the Town of Busti.
 - (6) Such fees may be reviewed from time to time by the Town Board and amended by resolution of the Town Board, as it deems necessary.
- D. Enumeration fee. When the Town Board determines the need for a dog enumeration, a fee of \$5 will be assessed to the owner of any dog found unlicensed or for which the license has expired and has not been renewed at the time the enumeration is conducted.
- E. Purebred licenses. The Town of Busti will issue a purebred license. The fee for a purebred license shall be \$25 plus the three-dollar surcharge, depending on whether the dog is spayed or neutered.
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[1] Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- F. Service dogs. The Town of Busti shall require a license for any guide dog, service dog, hearing dog or detection dog, as those terms are defined by Article 7 of the Agriculture and Markets Law, but no license fee shall be required therefor.
- G. Shelters. The Town of Busti does not allow the licensing of dogs by a shelter. The shelter shall send the adoptive dog owners to the Clerk of the town or city in which the dog will be harbored for licensing or to the Town Clerk of the Town of Busti where the shelter is located for the purchase of licensing prior to adoption.