

LOCAL LAW FILING

NYS Department of State
Division of Corporations, State Records
and Uniform Commercial Code
One Commerce Plaza, 99 Washington
Street, Albany, NY 12231.

(Use this form to file a local law with the Secretary of State)

**TOWN OF HERKIMER
LOCAL LAW NO. 3 OF 2021
DOG CONTROL LAW OF
THE TOWN OF HERKIMER**

BE IT ENACTED by the Herkimer Town Board as follows:

SECTION 1: PURPOSE

The purpose of this Local Law shall be to preserve the public peace and good order of the Town of Herkimer, Herkimer County New York, and to contribute to the public welfare and the preservation and protection of the property and person of the inhabitants of the Town of Herkimer by declaring and enforcing certain regulations and restrictions on activities of dogs and owners of dogs within the Township of Herkimer.

SECTION 2: AUTHORITY

This Local Law is enacted pursuant to the provisions of (Article 7 Chapter 59; Part T) of the Agriculture and Markets Law and the Municipal Home rule Law of the State of New York.

SECTION 3: TITLE

The title of this Law shall be "Dog Control Law of the Town of Herkimer."

SECTION 4: EXCLUSIONS

This Local Law shall not apply to any dog confined to the premises of any incorporated and licensed society devoted to the care of lost, strayed or homeless animals, or confined to the premises of any public or private hospital devoted to the treatment of sick animals.

SECTION 5: DEFINITION OF TERMS

As used in this Local Law the following words shall have the following respective meanings:

- (A) "DOG" shall mean male or female, licensed and unlicensed, altered or unaltered, members of the species *canis familiaris*.
- (B) "OWNER" shall mean any person who owns, harbors, keeps or has 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 parent(s), or other head of household where the minor resides. Landlords and mobile home park operators shall be deemed to have control of a dog owned by a tenant, by virtue of the fact that landlords and mobile home park operators have the ability to control dogs on their property through appropriate provisions that can be contained in their leases and mobile home park rules. Any person owning or harboring a dog for a period of one (1) week prior to filing any complaint charging a violation of this Local Law, shall be held in and deemed to be the owner of any dog found to be in violation of this chapter.

- (C) "RUN AT LARGE" means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.
- (D) "TOWN" means the Town of Herkimer.
- (E) "RESTRAINED" shall mean controlled by a leash; in the presence of a competent person and obedient to that person's commands; on or within a vehicle being driven or parked legally; within the property limits of its owner or keeper; upon the premises of another person with the consent of such other person.

SECTION 6: DOG CONTROL OFFICER

The position of Dog Control Officer may be created by the Town Board of the Town of Herkimer. Such Dog Control Officer shall have all the powers of a Peace Officer in the execution of this Local Law and in the execution of Article 7 of the Agriculture and Markets Law of the State of New York, including: serving appearance tickets and bringing civil actions in the name of the Town of Herkimer against violators of this Local Law. Every dog seized by the Dog Control Officer shall be maintained in a clean and humane manner; redeemed; placed for adoption; or euthanized in accordance with Article 7 of the Agriculture and Markets Law and in accordance with this Local Law.

SECTION 7: RESTRICTIONS

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

- (A) Run at large unless the dog is restrained as provided in Section 5 (E); accompanied by its owner or a responsible person and under the full control of such owner or person.
For the purpose of the Local Law, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.
- (B) 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.
- (C) Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner of the property.
- (D) Chase, jump upon or otherwise harass any person in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury except in defense of property of the owner or inhabitants.

(E) Habitually chase, run alongside of or bark at: moving motor vehicles; motorcycles or bicycles; snowmobiles; or animals while on a public street, highway, or place, or upon private property without the consent or approval of the owner of such property.

(F) 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.

(G) Be off the owner's premises, or outside a building or fenced in enclosure, if an unspayed female dog is in heat (season).

Exception: the owner may exercise such dog while on a securely fastened leash not more than six feet in length.

(H) No owner shall fail to provide their dog(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, and veterinary care when needed to prevent suffering, inhumane care or treatment.

(I) Number of Dogs Restricted: Not more than three (3) dogs, six months of age and older shall be kept, harbored, or maintained on any premises, regardless of the number of owners.

SECTION 8: VIOLATIONS OF RESTRICTIONS

It shall be the duty of the Dog Control Officer of the Town of Herkimer to enforce the provisions set forth in this Local Law. The Dog Control Officer may issue a court appearance ticket to the violator, or commence a civil action against the violator in the name of the Town of Herkimer.

SECTION 9: FEES FOR LICENSING OF DOGS

(A) All persons owning a dog or dogs in the Town of Herkimer must immediately apply for a dog license with the Herkimer Town Clerk when the dog becomes 4 months of age. The owner is required to present a current Certificate of Rabies at the time of licensing a new dog. A new rabies certificate must be presented with the renewal of an existing license if the previous rabies certificate is expired. All dogs must have attached to its collar an official Town of Herkimer identification tag.

(B) All dog licenses will be issued for a period of one year. The license will expire at the end of the month one year from the date of issue.

(C) Licensing fees are established by the Town Board in their annual Fee Schedule.

(D) Residents of the Town of Herkimer age 65 or older will be granted a \$2.50 discount on license fees.

(E) If a dog owner is sent a reminder notice after the end of the month in which renewal of a license was required, a \$2.00 surcharge will be added to the licensing fee. If the owner does not respond to renewal notices and a court appearance ticket is issued, a \$5.00 surcharge will be added to the renewal fee for each dog license required.

(F) Enumeration fee: When the Town Board determines the need for a dog enumeration, a fee of \$5.00 will be assessed in addition to the fees listed in Section 10(C, D or E) on all dogs found unlicensed during the enumeration.

(G) Purebred License: The Town of Herkimer will issue purebred licenses. All dogs will be licensed as follows: \$30.00 for 1-10 dogs plus \$3.00 for each unaltered dog and \$1.00 for each altered dog;

\$60.00 for 11-24 dogs plus \$3.00 for each unaltered dog and \$1.00 for each altered dog; \$120.00 for 25 or more dogs plus \$3.00 for each unaltered dog and \$1.00 for each altered dog; or as established by the Town Board in its annual Fee Schedule.

(H) Service Dogs: The Town of Herkimer will require a license for any guide dog, service dog, hearing dog, detection or therapy dog but there will be no charge for such license. Written proof of service dog status must be shown to the Town Clerk. If such a dog is retired from service, the fees stated in Section 8 (A, B or C) will be charged.

(I) The Town of Herkimer does not allow the licensing of dogs by a shelter. The shelter MUST send the adoptive dog owners to the Clerk of the Town or City in which the dog will be harbored for licensing.

(J) All dog licenses for Herkimer residents may be purchased by visiting the Herkimer Town Clerk's Office or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be NO refund of fees.

(K) A fee for a replacement ID tag will be established by the Town Board in its annual Fee Schedule.

(L) All fees will be used in funding the administration of the Dog Control Law of the Town of Herkimer.

(M) All persons that currently own three (3) dogs six months or older, and want to own additional dogs, may apply with the Herkimer Town Clerk for consideration for a special permit license for **each** dog above three (3) per premise or household. **The fee to be \$55.00 per dog application.** The application mentioned must be approved by both the Town of Herkimer Dog Control Officer and Town of Herkimer Codes Enforcement Officer. The application process will require both the DCO and CEO to have personal interviews of the applicants, and on-site inspections of the premises the dogs are to be housed. The purpose is to confirm that the applicants/dog owners will meet the responsibilities, and ability, of caring, feeding, veterinary care, housing, and up to date building codes for ALL dogs owned under the application, and that may be required under Agricultural and Markets Law. Any reasonable denial by either the DCO or CEO will be considered a denial of the application. Application fees are not reimbursable for denial. If both the DCO and CEO approve the application, it will then be presented to the Herkimer Town Board for final approval by majority vote. Upon approval the applicant will be given the additional dog license for that year if the dog meets the requirements under Section-9A. The license will be required to be renewed annually as per Section-9A. The Herkimer Town Board may also reject the application by majority vote. Upon rejection the applicants may re-apply at their own expense.

SECTION 10: PENALTIES

(A) A violation of the Local Law shall be deemed an offense and shall be punishable by a fine of not more than \$50.00 for the first offense, not more than \$100.00 for the second offense, and not more than \$150.00 for the third or subsequent offenses.

(B) An owner found liable in a civil action commenced in the name of the Town of Herkimer for violating this Local Law shall be required to pay to the Town a penalty of not more than \$50.00 for the first offense, not more than \$100.00 for the second offense, and not more than \$150.00 for the third or subsequent offenses. In any such action, the Town of Herkimer shall also be entitled to a judgment against the owner for the fees, costs and disbursements incurred by the Town in prosecuting the civil action.

SECTION 11: PROCEDURE FOR SEIZURE AND IMPOUNDMENT OF DOGS:

(A) The Dog Control Officer shall have the power to seize and impound dogs as set forth in Section 117 of the Agriculture and Markets Law.

(B) Fees for Seizure of Dogs: The fee for seizure and impoundment of dogs in violation of this law or the Laws of the New York State Department of Agriculture and Markets Law are as follows:

1. First Offense: Twenty-five dollars (\$25.00) for the first twenty-four hours or part thereof and twenty-five dollars (\$25.00) for each additional twenty-four hours or part thereof for the first impoundment of any dog owned by that person.
2. Second Offense: Fifty Dollars (\$50.00) for the first twenty-four hours or part thereof and twenty-five dollars (\$25.00) for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person.
3. Third Offense: One hundred dollars (\$100.00) for the first twenty-four hours or part thereof and twenty-five dollars (\$25.00) for each additional twenty-four hours or part thereof for the third impoundment, within one year of the first impoundment, of any dog owned by that person.

SECTION 11: ADOPTION OF DOGS

A person adopting a dog after the expiration of the appropriate redemption period shall pay an adoption fee to the Town of Herkimer in the amount of \$15.00. A person adopting a dog shall not be subject to impoundment fees.

SECTION 12: SEPARABILITY

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

SECTION 13: REPEALER

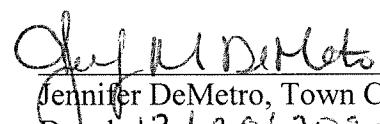
This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the control of dogs within the Town of Herkimer, and they shall be, upon the effective date of this Local Law, null and void.

SECTION 14: EFFECTIVE DATE

This Local Law shall be effective immediately upon filing with the Secretary of State.

1. I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of 2021 of the Town of Herkimer, was duly passed by the Town Board on December 20, 2021 in accordance with the applicable provisions of law.
2. 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 1 above.

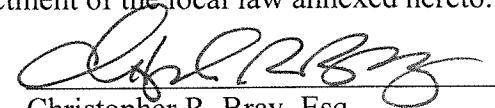
(SEAL)



Jennifer DeMetro, Town Clerk
Dated: 12/20/2021

STATE OF NEW YORK
COUNTY OF HERKIMER

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.



Christopher R. Bray, Esq.
Town Attorney
Town of Herkimer
Dated: 12/20/2021