

## CHAPTER 54

### ANIMAL AND DOG CONTROL

#### ARTICLE I GENERAL PROVISIONS

##### ~ 54.1 **Keeping of certain animals restricted**

No person shall permit, keep or maintain sheep, horses, cows, goats, skunks, pigs, foxes, poultry, chickens, ducks, geese or any other animal or fowl, except animals commonly used or known as "household pets," such as cats, dogs, birds, fish and the like, in any building or on any property within the Village of Avon except in the agricultural district and except that horses may continue to be kept, subject to the provisions of this chapter, if they were kept prior to the date of the adoption of this local law.

The penalties in subsection ~ 54.50 shall apply to any violation of this subsection.

##### ~ 54.3 **Horse keeping**

Except as otherwise provided in this chapter, use of land for keeping horses existing at the date of the adoption of this chapter may be continued although such use does not conform to the regulations specified by this chapter, provided however:

A. That no building used to keep horses shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.

B. That no additional land is used for the keeping or grazing of horses.

##### ~ 54.4 **Discontinuance of keeping of horses**

In all zoning districts except the agricultural district, wherever horses had been kept prior to the date of the adoption of this local law and horses are not kept on the premises for a period of one (1) year, horses shall not thereafter be kept on the premises. Such discontinuance of the active and continuous keeping of horses for such period of one (1) year is hereby construed and considered to be an abandonment of such use, regardless of any reservation of an intent not to abandon same or an intent to resume active horse keeping. If actual abandonment in fact is evidenced by removal of stables, structures, machinery, equipment and other evidence of horse keeping on the land and premises, the abandonment shall be construed and considered to be completed and all rights to reestablish or continue horse keeping shall thereupon terminate.

##### ~ 54.5 **Animals not to run at large**

No person owning or having in his possession or under his control any horses, cattle, fowl or other animals shall permit them or any of them to run at large in the Village of Avon or hitch such horse or other animal to any shade tree in the streets or public places in this Village.

The penalties in subsection ~ 54.50 shall apply to any violation of this subsection.

~ 54.6 **Seizure and confinement of animals and fowl** [Amended 6-15-1998 by L.L. No. 4-1998]

The police officers and Dog Control Officer of the Village and any other dog control officer or law enforcement officer are hereby authorized to seize and confine any animals or fowl not under restraint in the Village. If the owner or other person entitled to the custody of such fowl or animal fails to pay the cost of receiving and confining such fowl or animal within two (2) days of seizure, the Chief of Police shall sell such fowl or animal, except for farm animals, which shall be dealt with as provided by the Agriculture and Markets Law of the State of New York. Notice of time and place of sale shall be given by posting the same conspicuously in at least three (3) public places in the Village of Avon at least twenty-four (24) hours before the time of sale.

~ 54.7 **Charges for redemption of animals and fowl** [Amended 6-15-1998 by L.L. No. 4-1998]

For each fowl or animal, except dogs, seized and confined in pursuance of the provision of the foregoing subsection, the person redeeming the same shall pay to the Chief of Police the following fees:

- A. For receiving and surrendering each such fowl or animal: ten dollars (\$10.).
- B. The expense incurred by the Village to confine each such fowl or animal.
- C. For posting and affixing notice of sale for each fowl or animal noticed for sale: one dollar (\$1.).
- D. For each such fowl or animal sold: one dollar (\$1.).

~ 54.8 **Disposition of redemption fees, proceeds of sale of impounded animal or fowl**

The Chief of Police upon receiving the fees shall immediately pay the same over to the Village Clerk and thereupon deliver such fowl or animal to the owner thereof. In the case of the sale of such fowl or animal, the Chief of Police shall immediately pay the proceeds of the sale to the Village Clerk; the Village Clerk shall deduct therefrom and pay into the general fund for the Village the fees for receiving and the expenses of keeping such fowl or animal and the expenses of the sale. The Village Clerk shall keep the balance of such proceeds of sale and pay the same to the owner of such fowl or animal if applied for within six (6) months from the time when the same shall have been received and if not applied for within the six (6) months aforesaid, the said Village Clerk shall pay the same into the general fund of the Village.

~ 54.9 **Interfering with impounded animals of fowl**

No person shall rescue or take away from the custody of any person delivering or taking any such fowl or animal for the purpose of impounding or keeping the same under the foregoing provisions or obstruct, intimidate or interfere in any manner with any such person.

~ 54.10 **Horses standing in streets, public places, restricted**

No person shall permit any horse in his or her custody or control to stand or remain in any street or public place in the Village without causing the same to be securely fastened or leaving the same in the care and control of some responsible person able to control it and who does control it.

~ 54.11 **Keeping of bees**

Keeping of bees for any purpose whatever shall be prohibited in the Village of Avon.

## ARTICLE II DOG CONTROL

### ~ 54.20 **Title**

This article shall be known as "Dog Control."

### ~ 54.21 **Purpose**

The purpose of this local law shall be to promote the health, safety, morals and general welfare of the Village of Avon, including the protection and preservation of the property of the Village and its inhabitants and of the peace and good order by adopting and enforcing certain regulations and restrictions on the privileges of the owners of dogs and the rights and privileges of the residents upon the keeping and running at large of dogs within the Village of Avon.

### ~ 54.22 **Definitions**

For the purpose of this article, the following definitions shall apply:

At large. The term "at large" shall mean a dog not under restraint.

Dog or dogs. The term "dog" or "dogs" shall mean both male and female dogs unless the context requires otherwise.

Under restraint. A dog is "under restraint" within the meaning of this local law if it is licensed and controlled by a leash or chain; is accompanied by its owner or responsible person able to control it by command and who does so control it; is in a driven or parked vehicle or is physically contained within a securely fenced or other area.

Owner. The term "owner" shall include 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 care, custody and control of the minor's parents or other head of the household where the minor resides.

### ~ 54.23 **Running at large prohibited**

It shall be unlawful for any owner of a dog or dogs to permit such dog or dogs to be at large in the Village of Avon. Each dog owned by the same owner, regardless of its identity and found to be at large in violation of this section shall constitute a separate offense by the owner under this section and for purposes of the imposition of penalties pursuant to ~ 54.50 of this chapter.

### ~ 54.24 **Female dogs in heat off premises of owner prohibited**

It shall be unlawful in the Village for the owner of any female dog to permit the dog off the premises of the owner while such dog is in heat.

### ~ 54.25 **Biting, etc. persons prohibited**

It shall be unlawful for any owner of a dog in the Village to permit or allow such dog to bite, chase, jump upon or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

~ 54.26 **Causing damage or destruction to property, etc. prohibited**

It shall be unlawful for any owner of a dog in the Village to permit or allow such dog to cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner of such dog.

~ 54.27 **Habitual loud howling or barking, etc. prohibited**

It shall be unlawful for any owner of a dog in the Village to permit or allow such dog to engage in habitual loud howling or barking or conduct itself in such manner so as to habitually annoy any person other than the owner or persons harboring such dog.

~ 54.28 **Cause injury or chase prohibited**

It shall be unlawful for any owner or other person harboring any dog to permit or allow such dog, while in the Village of Avon, to habitually chase or bark at motor vehicles, bicycles or pedestrians; or kill or injure any dog, cat or other domestic or farm animal.

~ 54.29 **Dog Control Officer** [Amended 6-15-1998 by L.L. No. 4-1998]

A. The Dog Control Officer, law enforcement officer or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Village of Avon is authorized by the Village Board of Trustees to bring an action against any person who has committed a violation of this article within the Village of Avon and to assist in the enforcement of this chapter. The Dog Control Officer or law enforcement officer shall be authorized to draw an information and obtain supporting affidavits for submission to the Village Justice Court.

B. The Dog Control Officer shall have such other and further powers and duties as are set forth in Article 7 of the Agriculture and Markets Law of the State of New York, as amended, and may also make a complaint to a Village Justice of any dangerous dog as described in Article 7 of the Agriculture and Markets Law as amended and shall enforce any order of the Village Justice in such case.

~ 54.30 **Seizure and Redemption of Dogs**

A. Seizure. [Amended 6-15-1998 by L.L. No. 4-1998]

1. Any Dog Control Officer, law enforcement officer or authorized officer under contract with the Village of Avon shall seize any dog which is not licensed, whether on or off the owner's premises.

2. Any Dog Control Officer, law enforcement officer or authorized officer under contract with the Village of Avon may seize any dog in violation of any of the provisions of this chapter.

3. Each dog seized in accordance with the provisions of this section shall be taken to and confined at a facility where it will be properly sheltered, fed and watered for the redemption period as hereinafter provided.

4. In the event any dog seized does not bear a license tag and the owner is unknown, the Dog Control Officer, law enforcement officer or other authorized officer shall be authorized to destroy the dog seven (7) days after seizure or to dispose of the dog by sale or adoption unless the owner redeems the dog or demands a trial within seven (7) days of seizure.

5. In the event any dog seized bears a license tag or can be otherwise identified, the Dog Control Officer, law enforcement officer or other authorized officer must attempt to notify the owner. If such notification is given personally, the dog will be held seven (7) days after such notice before it is destroyed. If notice is given by certified mail, the dog will be held for a period of nine (9) days from the date of mailing.

B. Redemption. [Amended 6-15-1998 by L.L. No. 4-1998]

If a dog is to be redeemed, the owner shall pay the Village Clerk a seizure fee of Ten Dollars (\$10.00), plus the cost incurred by the Village for the care of the dog while confined. The owner must show proof that the dog has been licensed before the dog may be redeemed.

C. Trial procedure. [Amended 6-15-1998 by L.L. No. 4-1998]

In the event that the owner of a dog demands, in writing, a trial, he shall post bail of Twenty-Five Dollars (\$25.00) and pay the cost incurred by the Village for the care of the dog during confinement. The Dog Control Officer, law enforcement officer or other authorized officer shall immediately proceed to file an information with a Village Justice so that the matter will appear on the docket of the Village Justice Court as soon as possible. The rules of procedure and as to proof applicable in criminal actions shall apply.

D. Forfeiture of title to dog.

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

E. 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 Village. The Village shall keep a record of all sales and such record shall be open to the public. Such records shall be kept for one (1) year.

F. Dogs destroyed.

In the event it becomes necessary to destroy a dog, the Dog Control Officer, Law Enforcement Officer or other authorized officer shall arrange through a veterinarian or county dog warden for the destruction of the dog, cause the carcass to be disposed of and make a report in writing of such destruction to the Village Clerk. The owner of the dog destroyed shall be charged for the expense of destroying the dog.

G. Dangerous dog.

If any time in the determination of the court, the Dog Control Officer, Law Enforcement Officer or other authorized officer, a dog cannot be safely restrained or is an immediate threat to the safety of the Dog Control Officer, Law Enforcement Officer or other authorized officer, the dog may be immediately destroyed in the most humane manner available.

H. No compensation for dogs destroyed.

No owner of any dog destroyed under the provisions of this local law or any other person shall be entitled to any compensation for the value of the dog.

~ 54.31 **Complaint**

Any person who observes a dog violating this law in any manner in the Village of Avon may file a signed complaint, under oath, with the Village Justice or Dog Control Officer, specifying the specific violation, the date thereof, the damage caused, if any, a description of the dog, and name and residence, if known, of the owner or other person harboring such dog.

~ 54.32 **Procedure**

Upon receipt by the Village Justice of any complaint, in writing, the Village Justice must summon the alleged owner to appear in person before him. If the summons is disregarded, the Village Justice must permit the filing of an information and issue a warrant for the arrest of such person or enter a default judgment against the alleged owner.

~ 54.50 **Penalties** [Amended 6-15-1998 by L.L. No. 4-1998]

The violation of this chapter shall be punishable as follows:

A. There shall be a maximum fine of Twenty-five Dollars (\$25.00) for the first violation of this chapter.

B. There shall be a fine of not less than Twenty-five Dollars (\$25.00) or more than Fifty Dollars (\$50.00) for a second violation of this chapter.

C. There shall be a fine of not less than Fifty Dollars (\$50.00) or more than One Hundred Dollars (\$100.00) for a third violation of this chapter.

D. For the fourth violation and each subsequent violation, there shall be a fine of not less than Fifty Dollars (\$50.00) or more than One Hundred Fifty Dollars (\$150.00).

Historical Note

Article I was added by Local Law #14 of 1985 on December 3, 1985 and title of chapter was designed as Animal and Dog Control. Article II was enacted by Local Law #4 of 1982 and prior Chapter 54 was repealed.

References:

Animals, abandoned. Ag & Mkts L Art 23-B, ~ 335

Animals, cruelty to. Ag & Mkts L Art 26

municipality may not enact local laws or ordinances pertaining to. 1977 Op Atty Gen Aug 2

Appearance tickets. Ag & Mkts L ~ 114(4), ~ 124.

Authority of municipality to impose additional restrictions. Ag & Mkts L ~ 124

Change of ownership. Ag & Mkts L ~ 113

Clinics for neutering cats and dogs. Ag & Mkts L ~ 119-a

Cruelty to animals. Ag & Mkts L ~ 353

Dangerous dogs. Ag & Mkts L ~ 121; Matter of Brooks v Hemingway, 107 Misc2d 190; 433 NY2d 551

Disposition of strays or unwanted dogs. Gen Mun L ~ 88

Dog control officers. Ag & Mkts L ~ 114