

## Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of BURKE

Local Law No. 2 of the year 2023

A local law ANIMAL CONTROL LAW  
(Insert Title)

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one:)

of BURKE as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

RESOLUTION # 6 - 2023

At a regular session of The Town Board of the Town of Burke, County of Franklin, and State of New York at the Burke Town Courthouse in the Town of Burke on the 11<sup>th</sup> day of April at 6:00 P.M. in the year 2023:

The following resolution was moved, seconded and passed.

The motion was made by Tim Crippen and seconded by Paddy Wheeler.  
Roll Call: Arnold - aye, Jim - aye, Tim - aye, Paddy - aye, Bill - aye.

The Town Board of the Town of Burke hereby resolves that a revised Chapter 71 Animal Control Law including increased fees become effective May 1, 2023.

I, JUDY TAVERNIER, TOWN CLERK OF BURKE, COUNTY OF FRANKLIN, STATE OF NEW YORK, DO HEREBY CERTIFY THAT THE FOREGOING RESOLUTION WAS ADOPTED BY THE BURKE TOWN BOARD ON THE 11<sup>TH</sup> DAY OF APRIL 2023, AND THAT THE SAME IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD IN MY OFFICE AND OF THE WHOLE THEREOF.

IN WITNESS WHEREOF, I  
HAVE SET MY HAND AND  
SEAL THIS 11<sup>TH</sup> DAY OF  
APRIL 2023.

A handwritten signature in cursive script that reads "Judy Tavernier".

JUDY TAVERNIER, TOWN CLERK

## **Chapter 71 Animals**

### **Article I. Dogs**

- § 71-1 Purpose.
- § 71-2 Statutory authority.
- § 71-3 Title.
- § 71-4 Definitions.
- § 71-4.1 Licensing of dogs.
- § 71-5 Prohibited acts.
- § 71-5.1 Exemptions from prohibited nuisance.
- § 71-6 Dogs in heat.
- § 71-7 Seizure and impoundment; dangerous dogs.
- § 71-8 Appearance tickets.
- § 71-9 Complaints.
- § 71-10 Fees.
- § 71-11 Penalties for offenses.
- § 71-11.1 Severability.
- § 71-11.2 Effective date.

### **Article II. Animals Other Than Dogs**

- § 71-12 Definitions.
- § 71-13 Domestic animals as nuisances.
- § 71-14 Penalties for offenses.

### **Article I. Dogs**

#### **§ 71-1 Purpose.**

The purpose of this article is to protect the health, safety and general welfare of the inhabitants of the Town of Burke by enforcing regulations on the licensing and activities of dogs in said Town of Burke, so as to afford consistent protection to the person and property of the inhabitants thereof, including the rights and privileges of owners of dogs, the residents and the inhabitants of said Town of Burke.

#### **§ 71-2 Statutory authority.**

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

#### **§ 71-3 Title.**

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

#### **§ 71-4 Definitions.**

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

### **COMPANION ANIMAL OR PET**

Any dog or cat, or any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include a "farm animal" as defined in this section.

### **DOG**

Male and female, licensed and unlicensed, members of the species *Canis familiaris*.

### **DOG CONTROL OFFICER**

The Dog Control Officer of the Town of Burke appointed by the Town Board pursuant to § 113 of the Agriculture and Markets Law.

### **FARM ANIMAL**

Any ungulate, poultry, species of cattle, sheep, swine, goat, llama, horse or fur-bearing animal, as defined in § 11-1907 of the Environmental Conservation Law, which is raised for commercial or subsistence purposes. "Fur-bearing animal" shall not include dogs or cats.

### **IDENTIFICATION TAG**

A tag issued by the Town of Burke which sets forth an identification number, together with the name of the municipality, the State of New York, contact information, including telephone number for the municipality, and such other information as the licensing municipality deems appropriate.

### **OWNER**

The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog, unless the dog is or has been lost and such loss was promptly reported to the Dog Control Officer and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the owner of such dog for the purpose of this article. In the event that the owner of any dog found to be in violation of this article shall be under 18 years of age, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog and violation of this article.

### **RUN AT LARGE**

To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.



## **TOWN**

The Town of Burke.

## **TOWN CLERK**

The Town Clerk of the Town of Burke.

### **§ 71-4.1 Licensing of dogs.**

A. The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog which is under the age of four months and which is not at large except as otherwise provided in this law.

B. The application shall state the sex, actual or approximate age, breed, color, and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. The Town of Burke may also require additional information on such application as deemed appropriate. The application shall be accompanied by the license fee and a certificate of rabies vaccination, provided such certificate or affidavit shall not be required if the same is already on file with the Town Clerk. In lieu of the rabies certificate, an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that the life of the dog would be endangered by vaccinating due to old age or other reasons. 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 Town 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.

C. All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.

D. Purebred license: The Town of Burke will not be issuing purebred or kennel licenses. All dogs will be licensed individually as per the fee system in § 71-10.

E. The Town of Burke does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town of Burke Town Clerk.

F. All dog licenses may be purchased by visiting the Town offices 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.

G. Renewing early or late does not change the renewal month. However, owners having more than one dog may request common renewal dates for their licenses, which may be granted at the discretion of the Town Clerk, provided that all other licensing and renewal requirements are met. No licensing fees will be prorated, refunded, or waived when accommodating such a request.

H. 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.

I. In the event of a change in the ownership of any dog which has been licensed pursuant to this article, 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 any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.

J. If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within ten (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 of theft, the owner of record of any such dog shall not be liable for any violation of this article committed after such report is filed.

K. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of license or upon the time of such renewal as set forth by the Town Clerk.

L. Change of address: When there is a change of address for the owner of record, the owner shall notify the Town Clerk of such change. If the change is still within the Town of Burke, the Town Clerk will make the appropriate updates to the dog license record. If the change is located outside the Town of Burke, the Town Clerk shall make a note in the record and cancel the license. The Town Clerk shall forward a copy of the license to the Clerk of the municipality to which the owner has moved, informing said Clerk that the dog now resides in their municipality. If the Town of Burke Clerk is notified by another municipality in Franklin County that one of their licensed dogs has moved into the Town of Burke, the Town Clerk will issue a Town of Burke license at no charge for the remainder of the license year upon presentation by the owner of the old license.

**§ 71-5 Prohibited acts.**

It shall be unlawful for any owner of any dog in the Town to:

A. Permit or allow such dog to run at large, unless the dog is restrained by an adequate collar and leash and accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this article, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by their owner and not required to be leashed while hunting.

B. Permit or allow such dog to be a public nuisance. It is hereby expressly declared that any dog which engages in loud howling, barking, crying or whining so as to unreasonably annoy any person is a public nuisance. It shall be unlawful for any person to own or possess a dog which is a public nuisance as herein defined.

C. Permit or allow such dog to uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.

D. Permit or allow such dog to chase, jump upon or at or otherwise harass any person, or companion animal of such person, in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.

E. Permit or allow such dog to 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.

F. Permit or allow such dog to 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. The owner shall immediately remove all feces left by such animal, depositing the same directly into an airtight container or bag, which shall then be deposited into a container used for the disposal of refuse. In no event shall any feces be deposited in sewers or drains, whether storm or sanitary.

G. Permit or allow such dog to commit a nuisance on the property of the person owning or person harboring or housing custody of such dog which nuisance may reasonably be expected to create odors, insects or other health matters which will interfere with the health, safety, welfare and comfort of adjoining property owners or property users.

H. Fail to license a dog as required by § 71-4.1.

**§ 71-5.1 Exemptions from prohibited nuisance.**

Dogs participating in training at a Town-approved dog training facility shall be exempt from § 71-5B between the hours of 7:00 a.m. and 10:00 p.m.

**§ 71-6 Dogs in heat.**

It shall be unlawful for any person owning or having possession of any female dog in heat to permit the same to run at large, as the phrase has been heretofore defined herein, or to run loose on or within the premises of such person. The term "running loose" is defined for the purposes of this section as being outside of a house, closed garage, closed building or other enclosure upon the owner's premises, whether tied or not.

**§ 71-7 Seizure and impoundment; dangerous dogs.**

A. The Dog Control Officer or any peace officer shall seize any unlicensed dog, whether on or off the owner's premises; any unidentified dog not wearing a tag that is not on the owner's premises; and/or any dog found in violation of § 71-5A and § 71-6 of this article. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law, except that each dog that is not identified shall be held for a period of three business days from the day seized, and each dog that is identified shall be held for a period of seven business days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner complies with the requirements set forth in Article 7, § 117, of the Agriculture and Markets Law.

B. The redemption period that applies to either identified or unidentified dogs that are seized shall be calculated in terms of business days, and shall never include the day that the dog is seized, Saturdays, Sundays or national holidays. Business days are weekdays from 9:00 a.m. until 5:00 p.m.

C. The Dog Control Officer or peace officer may also investigate and report to a Town Justice of the Town any dangerous dog as described in Article 7 of the Agriculture and Markets Law and see that the order of the Town Justice in such case is carried out.

**§ 71-8 Appearance tickets.**

The Dog Control Officer, Deputy Dog Control Officer(s), Town of Burke Park Rangers or a peace officer having reasonable cause to believe that a person has violated this article shall issue and serve upon such persons an appearance ticket for such violation(s).

**§ 71-9 Complaints.**

Any person who observes a dog in violation of this article may file a complaint under oath with a Town Justice of the Town 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 article.

**§ 71-10 Fees.**

**A.** Intent. The purpose of this subsection is to provide a schedule of fees to be charged dog owners for the providing of certain services to dog owners by the Town of Burke.

**B.** License fees.

**(1)** Annual fee.

**(a)** The fee for a license for a dog that has been altered is \$15. The fee for an unaltered dog is \$25.

**(b)** In addition to the fees set forth in § 71-10B(1)(a), an assessment of \$3 for each unaltered dog and \$1 for each altered dog shall be charged for the purpose of population control as mandated by Article 7 of the Agricultural and Markets Law.

**(c)** Enumeration fee. When the Town Board determines the need for a dog enumeration, a fee of \$25 will be assessed to all dogs found unlicensed or renewed at the time enumeration is conducted.

**(d)** Late fee. The Town of Burke shall charge a late fee of \$5 for any license renewed 60 days or more after the date of expiration.

**(e)** All of the fees set forth in this Section 71-10 are subject to change by the Town Board.

**(2)** The local license fee shall be dedicated for the control of dogs and enforcement of this article and Article 7 of the Agricultural and Markets Law.

**(3)** The owner of a dog who requests the Town of Burke to pick up a dog for disposal at the county dog shelter shall pay a pickup fee and a disposal fee as set from time to time by resolution of the Town Board. Said fee shall be paid to the Town of Burke prior to or at the time the pickup occurs.

**C.** Seizure fee. In addition to the payment of any fee or penalty prescribed by this article, the owner of a dog seized by the Town of Burke shall pay a seizure fee as set from time to time by resolution of the Town Board for each dog so seized.

D. Veterinary fees. In addition to the payment of impoundment fees, seizure fees or any other costs and expenses incurred by the Town of Burke, any person redeeming an impounded dog shall be liable for the payment of all veterinarian expenses incurred by the Town of Burke. Payment of such expenses shall be made to the Town of Burke prior to the release of such dog.

E. Costs and maintenance. In addition to the payment of any penalty prescribed by this article and/or other expenses required by this article or applicable statutes, an owner shall pay the reasonable expenses incurred by the Town of Burke for the feeding and care of any dog so seized.

F. The Town Board may amend, by resolution, the various fees set forth in this article.

**§ 71-11 Penalties for offenses.**

A violation of this article shall be punishable as follows:

A. Any violation of §§ 71-5(A) through (G) and 71-6 shall be subject to:

(1) Where prosecuted pursuant to the Penal Law, a fine of not less than \$25 but not more than \$250 or by imprisonment of not more than five days or by both such fine and imprisonment, except that where the person was found to have violated §§ 71-5(A) through (G) and 71-6 or Article 7 of the Agriculture and Markets Law within the preceding five years, such violation shall be punishable by a fine of not less than \$50 but not more than \$500 or by imprisonment of not more than 10 days or by both such fine and imprisonment, and where the person was found to have committed two or more such violations within the preceding five years, such violation shall be punishable by a fine of not less than \$100 but not more than \$750 or imprisonment for not more than 15 days, or by both such fine and imprisonment; or

(2) Where prosecuted as an action to recover a civil penalty, a civil penalty of not less than \$25, except that when the person was found to have violated §§ 71-5(A) through (G) and 71-6 or Article 7 of the Agriculture and Markets Law within the preceding five years, the civil penalty may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than \$100.

B. Any violation of § 71-4.1 shall be subject to:

(1) Where prosecuted pursuant to the Penal Law, a fine of not less than \$25, except that where the person was found to have violated § 71-4.1 or Article 7 of the Agriculture and Markets Law

within the preceding five years, the fine may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, such violation shall be punishable by a fine of not less than \$100 but not more than \$750 or imprisonment for not more than 15 days, or by both such fine and imprisonment; or

(2) Where prosecuted as an action to recover a civil penalty, a civil penalty of not less than \$25, except that when the person was found to have violated § 71-4.1 or Article 7 of the Agriculture and Markets Law within the preceding five years, the civil penalty may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than \$100.

**§ 71-11.1 Severability.**

If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any Court of competent jurisdiction such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances and the Town Board of the Town of Burke hereby declares that it would have passed this article or the remainder thereof had such invalid application or invalid provision been apparent.

**§ 71-11.2 Effective date.**

This article shall take effect May 1, 2023.

**Article II Animals Other Than Dogs**

**§ 71-12 Definitions.**

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

**HARBOR** - To provide food or shelter to any cat or domestic animal.

**OWNER** - Any person who harbors or keeps any cat or domestic animal. In the event that any cat or domestic animal found in violation of this article shall be owned by a person under 18 years of age, the owner shall be deemed to be the parent or guardian of such person or the head of the household in which said person resides.

**§ 71-13 Domestic animals as nuisances.**

It shall be unlawful for any owner of any cat or domestic animal to permit or allow such cat or domestic animal in the Town of Burke to:



A. Engage in habitual loud howling, barking, crying or whining or to conduct itself in such a manner so as to unreasonably and habitually annoy any person.

B. Cause damage or destruction to property or commit a nuisance by defecating or urinating upon the premises of a person other than the owner of such cat or domestic animal.

C. Chase or attack any person peacefully conducting himself in any place where such person may lawfully be or to chase or attack any cat or domestic animal while such animal is in any place it may lawfully be.

D. Soil or commit any nuisance on any commonfare or any place where the public congregates or walks, except that one walking or exercising such cat or domestic animal shall be permitted to curb such animal in that portion of the street lying between the curblines. It shall be the duty of any person who so curbs a cat or domestic animal to immediately remove all feces left by such animal, depositing the same directly into an airtight container, which shall then be deposited into a container used for the disposal of refuse. In no event shall any feces be deposited in sewers or drains, whether storm or sanitary.

**§ 71-14 Penalties for offenses.**

A violation of any provision of this article is hereby deemed to be an offense, punishable by a fine not to exceed \$250 or imprisonment for a period not to exceed 15 days, or both. Each week's violation shall constitute a separate offense punishable by like penalty.