

## **LOCAL LAW NO. 2 OF 2005**

### **A LOCAL LAW AMENDING SECTION 14 OF THE TOWN CODE ENTITLED “ANIMALS”.**

Local Law No. 2 of 2005 amends **Section 14 of the Town Code**, entitled “**Animals.**” The purpose of this law is to update and revise the Town’s existing regulations governing animals within the Town.

The amendment modifies the current provisions of Section 14 to clarify requirements, address enforcement issues, and ensure that the Town’s animal regulations are consistent with present-day conditions and community standards. These changes may include updates related to animal control, ownership responsibilities, public health and safety, and penalties for violations.

The law does not create an entirely new chapter of the Town Code, but instead revises an existing section to improve clarity, effectiveness, and enforceability.

Upon adoption, this local law becomes part of the Town Code and applies uniformly throughout the Town.

#### **ARTICLE I**

##### **Domesticated Pets**

###### **§ 14-1. Purpose.**

The Town Board of the Town of Mt. Morris finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property, and has created nuisances within the Town. The purpose of this chapter is to protect the health, safety, and welfare of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Mt. Morris.

###### **§ 14-2. Authority.**

This article is enacted pursuant to the provisions of Article 7 and Article 26 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York, as amended by Part T of Chapter 59 of the Laws of 2010, and as may be subsequently amended and supplemented.

###### **§ 14-3. Title.**

This article shall be known and may be cited as the "Dog Control Law of the Town of Mt. Morris."

###### **§ 14-4. Definitions.**

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

**AGRICULTURE AND MARKETS LAW** — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this chapter and as amended thereafter.

**ANIMALS** — Male and female members of the species *felis catus* or *canis familiaris*.

**AT LARGE** — Off the premises of the owner and not under the control of the owner, their agent, or a member of their family, whether by tether, leash, or similar device that provides direct control.

**CAT** — Male and female members of the species *Felis catus*.

**CLERK** — The Clerk of the Town of Mount Morris.

**COMMERCIAL KENNEL** — Any use on a lot, whether such use is primary or otherwise, wherein five or more dogs, each of which is six months of age or older, are kept or maintained for sale, boarding, breeding, grooming, letting for hire, training or any other purpose involving compensation, whether monetary or otherwise, of any kind.

**COMPANION ANIMAL** — Any animal defined in §350, Subdivision 5, of the Agriculture and Markets Law.

**CONFINED** — As applied to an animal, shall mean that such animal is securely confined or restrained and kept on the owner's premises either within a building, kennel, or wire or other suitable enclosure or securely fastened on a chain, wire or other tether of such length and so arranged so that the animal cannot reach or endanger any person or adjacent premises, or on any public street, way, or place or, if the animal is being transported by the owner, that it is securely confined in a crate or other contained or so restrained in a vehicle that it cannot escape therefrom.

**COUNTY** — The County of Livingston, New York.

**DANGEROUS DOG** — Any dog which:

- (a) without justification attacks a person, companion animal as defined in the New York State Agriculture and Markets Law, farm animal as defined in the New York State Agriculture and Markets Law, or domestic animal as defined in the New York State Agriculture and Markets Law, and causes physical injury or death; or
- (b) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animal, farm animal or domestic animal, or
- (c) without justification, attacks a service dog, guide dog, or hearing dog and causes physical injury or death. A dangerous dog does not include police work dogs, as defined in the New York State Agriculture and Markets Law, which acts in the manner described in this definition while such police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

**DOG** — Male and female, licensed and unlicensed, members of the species *canis familiaris*.

**DOG CONTROL OFFICER or DCO** — A person or persons appointed by the Town for the purpose of enforcement of this chapter.

**EXEMPT KENNEL** — Any use on a lot for a municipal animal shelter or veterinary facility, unless such use includes activities which would be defined herein as a commercial kennel.

**GUARD DOG** — Any dog trained to patrol private property, attack intruders on private property, on command or otherwise, or to respond to commands in general for the purpose of patrolling enclosed private lands and for protecting property or people.

**GUARD DOG AGENCY** — Any individual, group, or corporation in the business of raising, training, or the letting for hire of guard dogs.

**HARBOR** — To provide food or shelter to any cat or dog.

**HUNTING DOG** — A dog actively involved in hunting or training activities as permitted by Environmental Conservation Law § 11-0923.

**IDENTIFICATION TAG** — A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and state, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

**KENNEL PERMIT** — The document issued by the Town of Mount Morris pursuant to this article, indicating compliance with the application process required by this article.

**LEASH OR RESTRAINED BY A LEASH** — A dog is equipped with a collar of sufficient strength to restrain the dog to which is attached. A leash of sufficient strength to restrain the dog, not more than eight feet long, which leash shall be secured or shall be held by a person having the ability to control and restrain the dog by means of the collar and leash. A harness worn by a guide dog for the blind, a hearing dog, or a service dog trained to aid a person with a disability, as such dogs are defined in Article 7 Section 108 of the Agriculture and Markets Law, shall be deemed a suitable leash hereunder.

**MUTILATE** — To injure or disfigure by irreparably damaging body parts. Mutilation does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices .

**NONCOMMERCIAL KENNEL** — Any use on a lot, whether such use is primary or otherwise, wherein five or more dogs are kept or maintained for a purpose other than compensation of any kind.

**NONCONFORMING COMMERCIAL KENNEL** — Any premises in a residential district that is used for the commercial breeding or commercial boarding of dogs as nonconforming use.

**NONCONFORMING**— Any land use or structure that was legal when established but does not conform to the standards of the current zoning designation's permitted uses or ordinance.

**OWNER** — The person entitled to claim lawful custody and possession of a dog or cat 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 Town Clerk and 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 that is kept in, brought into, 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 chapter shall be held and deemed to be "owner" of such dog for the purpose of this chapter. In the event that the "owner" of any dog found to be in violation of this chapter 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 the said dog in violation of this chapter.

**PUBLIC NUISANCE** — As applied to an animal, shall describe, designate, or apply to:

- a. Every animal which seriously and habitually disturbs the peace and quiet of the neighborhood by barking or howling or making other disturbing noises for a continuous period of fifteen minutes or longer.
- b. Every animal which habitually chases any person or bicycle, automobile, or other vehicle upon any public highway or in any such public place.
- c. Every animal which is a dangerous animal as defined as a “dangerous dog”.

**PUBLIC PROPERTY** — A place to which the public or a substantial group of persons has access and includes, but is not limited to, sidewalks, streets, transportation facilities, schools, places of amusement, parks, and playgrounds.

**RESIDENT** — A resident of the Town of Mt. Morris.

**SIDEWALK** — The area between the curbline and the abutting property owner's line.

**TETHER or TETHERING** — Shall include the act of leashing, fastening, securing, chaining, tying, or otherwise restraining a dog to any object, stationary or otherwise, except when such acts occur as part of the lawful engagement of a hunting dog or working dog as defined in this section. The area in which the dog is tethered must be clean, and the dog must have access to food, potable water, and shelter from weather. The tether should be at least eight feet in length.

**PERSON** — An individual, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

**RUN AT LARGE** — Off the premises of the owner.

**TOWN** — The Town of Mt. Morris.

**WORKING DOG** — Any dog that is trained to herd and/or protect livestock, control bird and/or wildlife populations, or is actually or has been used in connection with farming or agricultural purposes.

All other words and phrases used in this article shall have, for the purpose of this article, the meanings respectively ascribed to them by Article 26-A of the Agricultural and Markets Law (Care of Animals by Pet Dealers), Article 35-D of the General Business Law (Sale of Dogs and cats) and

the Federal Animal Welfare Act (7 U.S.C. § 2131 et seq.), as well as the amendments and/or successors to said laws.

#### **§ 14-5. Restrictions.**

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

- A. Run at large unless the dog is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of the chapter, 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 howling, barking, crying or whining or conduct as to unreasonably and habitually disturb the comfort of any person other than the owner of such dog.
- C. Cause damage or destruction to public or private property, defecate, urinate, or otherwise commit a nuisance upon the property of a person other than the owner or harbinger of the dog. No person owning, harboring, keeping, possessing, or having control over any dog shall cause, suffer, or allow dog to soil, defile, or defecate on any common thoroughfare, sidewalk, passageway, roadway, highway, street, play area, park, dog park, or any place where people congregate or walk, on any private property without the permission of the owner of said property. The presence of a dog on a private property of a person other than the dog's owner or possessor of such dog shall be presumed unauthorized.
  - 1) Any person owning, harboring, keeping, possessing, or having control over any dogs shall be in violation of this section. All feces are immediately removed by said person in a sanitary manner and then sealed and deposited in a garbage receptacle. In no event shall any feces be deposited in sewer drains, whether storm or sanitary. The requirements of this subsection shall not apply to a person who is handicapped or who is visually impaired and accompanied by a guide or service dog.
- D. Bite, chase, jump upon or at, 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.
- E. 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. The owner shall place and keep on leash licensed dog a suitable collar, to which shall be securely attached the license tag issued for such dog. No dog shall be permitted to be at large without a collar and license tag. No license tag shall be placed on a dog other than the dog described in the license.
- G. Number of animals on premises:
  - 1) It shall be unlawful to keep more than four animals, four months old or older, on any premises, regardless of the number of owners, unless the provisions of chapter §14-10 in regard to kennels have been complied with.
- H. Animals in heat:
  - 1) The owner of every animal must effectively confine such animal at all times during every period which such animal is in heat.
  - 2) Permit for dog breeding is required. The owner of a licensed dog who sells or offers more than six and no more than 25 dogs, born and raised on their residential premises, per year, shall obtain a dog breeding permit from the Code Enforcement Officer.
    - a. Permits are valid for one calendar year and must be renewed 30 days prior to their expiration date. The Code Enforcement Officer shall consider the effect on the character of the neighborhood and when considering the permit application.
    - b. An owner applying for a dog breeding license must have had no violations of Chapter 14 of the Mt. Morris Town Code during the 36 months prior to the application.
    - c. The permit shall be revoked in the event that the homeowner, or other dog owners/licensees within the household, is/are convicted of two or more violations of Chapter 14 of the Mt. Morris Town Code. Having a permit revoked is just cause to deny future breeding permit requests.
    - d. Owners who sell or offer no more than six dogs per year are not required to obtain a dog breeding permit. I. Animals to be leashed:

- I. No person who owns a dog, shall permit such dog to be at large in the Town of Mt. Morris, Livingston County, New York, unless on a leash not to exceed eight feet in length, other than when on the premises of the person owning, keeping, harboring, or having the custody and control of such dog or upon the premises of another with the knowledge, consent, and approval of the owner of said premises or when hunting in the company and under the control of the hunter or hunters.

**§ 14-6. Licensing of dogs; fees.**

- A. License required. All dogs in the Town shall be licensed with the Town Clerk by the age of four months, and any person applying for a dog license shall present a current certificate of rabies vaccination or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required at the time of making application for a license or for the renewal of an existing license. Each applicant for a dog license must state on such application whether any ear of the dog for which he applies for such license had been cut off wholly or in part. In the case of a spayed or neutered dog, a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, providing that such certificate or affidavit shall not be required If the same is already on file with the Town Clerk.
- B. Expiration of license. Unless for a dangerous dog, dog licenses shall be valid for periods of one and two years and shall expire at the end of the month one or two years from the date of issuance depending upon the licensure period paid for at time of licensure or renewal. A licensure period cannot exceed the expiration date of the rabies vaccination on file. Dangerous dog licenses shall be valid for a period of one year and shall expire at the end of the month one year from the date of issuance.
- C. License fees. The fee for a spayed or neutered dog will be determined by the Town by resolution from time to time. The fee for an unspayed or unneutered dog will be determined by the Town by resolution from time to time; such fee shall be at least \$5.00 more than the fee for a spayed or neutered dog. The fee for a replacement dog identification tag will be as determined by the Town by resolution from time to time.
- D. Each individual dog license for a spayed or neutered dog shall be subject to an animal population control surcharge in the amount as mandated by New York State as must be paid at the time the dog license application is filed. Each individual dog license for an unspayed or unneutered dog shall be subject to an animal population control surcharge in the amount as mandated by New York State as must be paid at the time the dog license application is filed. Such surcharges shall be in addition to the fees set forth in Subsection C hereof.
- E. Enumeration fee. When the Town Board determines the need for a dog enumeration, a fee as determined by the Town by resolution from time to time will be assessed to the owner of any dog found unlicensed or for which the license has not been renewed at the time the enumeration is conducted.
- F. Service dogs. The Town shall require a license for any guide dog, service dog, hearing dog or detection dog; however, the license fee will be waived for such dogs as those terms are defined by Article 7 of the Agriculture and Markets Law. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," or "Service Dog," as may be appropriate, by the Clerk.
- G. Fees and insurance for dangerous dogs:
  - 1) The fee for registering a dangerous dog shall be established by Town Board resolution.
  - 2) The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the town clerk for a fee of \$50.00, in addition to other fees that may be authorized by law. The town clerk shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The dog control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.
  - 3) All owners, keepers, or harborers of dangerous dogs shall provide to the Town Clerk a certificate of public liability insurance company authorized to do business in the state of New York in a single-incident amount of no less than

\$100,000.00 for bodily injury to or death of any person or for damage to property owned by any person which may result from the ownership, keeping, or maintenance of dangerous dogs. The owner or custodian of the animal shall produce evidence of the required insurance upon the request of a law enforcement officer or dog control officer, and to the Town Clerk at the annual time of annual licensure renewal.

- 4) Every person owning or harboring a dog adjudicated as being dangerous as defined must be registered with the Town Clerk; the registration forms must contain the following information:
  - a. The name of the applicant.
  - b. The name of the owner of the dangerous dog if different from the applicant.
  - c. The address where the dangerous dog will be kept.
  - d. The exact location of the property where the dog will be kept.
  - e. The method to be used to secure or restrain the dangerous dog on the property.
  - f. A description of the animal for identification purposes.
- H. Shelters. The Town does not allow the licensing of dogs by a shelter. The shelter shall send all dog owners to the Clerk of the town or city in which the dog will be harbored for licensing.
- I. If the application shall disclose and the Clerk is satisfied that the dog for which the license is either a guide dog, a hearing dog, a service dog and actually in use for such purpose or owned by a recognized guide dog, hearing dog, or service dog training center located within New York state during the period such dog is being trained or bred for such purpose, or a war dog, police work dog, working search dog, detection dog, or therapy dog, the license shall be issued without payment of any fee, and the Clerk shall inscribe across the face of the license in red words "guide dog", "hearing dog", "service dog", "war dog", "police work dog", "working search dog", or "detection dog", as the case may be. "Guide dog", "hearing dog", "service dog", "war dog", "police work dog", "working search dog", and "detection dog" are defined within the New York State Agriculture and Markets Law §108.
- J. All dog licenses shall be purchased in person at Town Clerk's office or by regular mail. If licensing or renewing a license by mail, the appropriate fee shall accompany the forms. There shall be no refund of fees.
- K. All fees shall be used in funding the administration of the Dog Control Law of the Town.

#### **§ 14-7. Purebred licenses.**

- A. The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by § 14-6 of this article. A purebred license shall be valid for a period of one year and shall be renewable annually thereafter prior to the expiration date. Such application shall be made to the Clerk of the Town.
- B. The application shall be made using a form or forms provided by the Town and shall include, at a minimum, the name, address and telephone number of the owner; the county and city, town or village where such dog(s) is or are harbored; the sex, breed, registry name, and number of each purebred registered dog over the age of four months that is harbored on the premises; and the sex and breed of each purebred dog over the age of four months that is harbored on the premises and that is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months that are harbored on the premises have been listed.
- C. The application shall be accompanied by the license fee, surcharges and additional fees required by § 14-6 of this article, plus an additional surcharge fee as determined by the Town by resolution from time to time, and a certificate of rabies vaccination or statement in lieu thereof, as required by § 14-6 of this article.
- D. Upon receipt of the foregoing items, the Clerk shall validate the application, assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once an application has been validated, no refund therefor shall be made. The Clerk shall provide a copy of the purebred license to the owner and retain a record of the purebred license in the Town records.
- E. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing

provisions of § 14-6 of this article, except when the new owner holds a valid purebred license.

#### **§ 14-8. Change of ownership; lost or stolen dog; death**

- A. Change in owner or address. In the event of a change in ownership of any dog which has been licensed pursuant to this chapter or change of address of the owner of record of any dog, the owner of record shall, within 10 days of the change, file with the Town Clerk a written notification of such event. In the case of loss or theft, the owner of record shall not be liable for any violation of this chapter committed after such notification had been made.
- B. Lost or stolen dog. If any dog which has been licensed is lost or stolen, the owner of record shall, within 10 days of discovery of such loss or theft, file with the Town Clerk a written notification of such event. In the case of loss or theft, the owner of record shall not be liable for any violation of this chapter committed after such notification has been made.
- C. Death of dog. In case of the death of a licensed dog, the owner or record shall notify the Town Clerk of the dog's death either before or upon receipt of a renewal notice from the Town Clerk.

#### **§ 14-9. Confinement and restraint of dangerous dogs**

The following regulations shall apply upon imposition of options to a court of competent jurisdiction pursuant to 123(2) of the New York State Agriculture and Markets Law:

- A. All dangerous dogs shall be securely confined indoors or in a secure, enclosed, and locked pen or kennel. The pen, kennel, or structure shall be in the rear yard, shall be at least 50 feet from the property lines, and have secure sides of six feet in height, and a Town-issued building permit shall be required. The structure shall be locked when the dog is within the structure. The structure shall also have a secure bottom or floor attached to the sides and have a conspicuous sign displaying the words "dangerous dog" in letters no less than 4 inches high and one inch wide, visible at 50 feet, along with the name and telephone number of the person owning, harboring, or in control of said dangerous dog.
- B. No Person, owner, or harbinger of a dangerous dog shall permit such dog outside its pen, kennel, or structure unless the dog is securely leashed with a leash no longer than four feet in length.
- C. No person, owner, or harbinger of a dangerous dog shall permit such dog outside its pen, kennel, or structure unless it is muzzled in such a manner that it cannot bite.
- D. No person, owner, or harbinger shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless such person is in physical control of the leash. The dog may not be leashed to inanimate objects, such as trees, posts and buildings, outside of its kennel.
- E. No person under the age of 18 shall own, control, attempt to control or walk a dangerous dog.
- F. No person shall walk more than one dangerous dog at a time.
- G. No dangerous dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no animal may be kept in the house or structure when the windows or screen doors are the only obstacle in preventing the dog from exiting the structure.

#### **§14-10. Dog kennels legislative intent**

It is the intent hereof to require that in order for a dog kennel to be maintained or established in the Town of Mt. Morris, a kennel permit be obtained from the Town, for the purposes of keeping a record thereof and assuring the healthful and humane treatment of dogs pursuant to New York State or federal law.

- A. New York State and federal licensing and compliance:
  - 1) Every Commercial or non-commercial kennel which is required to be Licensed by either the New York State Department of Agriculture and Markets Law or the United States Department of Agriculture shall at all times be so licensed.
  - 2) Every individual dog which is kept or maintained in a commercial or non-commercial kennel shall at all times be licensed, if required, pursuant to state and local law or regulation.
  - 3) Every individual dog which is housed, kept, or maintained in a commercial or noncommercial kennel shall at all times be in compliance with all applicable

vaccination and other canine health maintenance requirements pursuant to federal, state and local law or regulation.

- 4) Every commercial and non-commercial kennel shall at all times be in compliance with all applicable federal, state, and local laws and regulations, including but not limited to Town of Mt. Morris zoning regulations and New York State Uniform Fire Prevention and Building Code regulations.
- B. Town Kennel permit required; application; fee; renewal
- 1) No commercial or non-commercial kennel shall be operated, maintained, or kept on a lot in the Town of Mt. Morris, unless a permit has been issued for such commercial or non-commercial kennel. The Code Enforcement Officer shall issue each kennel permit upon application for same, subsequent to verification by the Town of Mt. Morris Code Enforcement Officer that any kennel license required pursuant to state or federal law or regulation is currently in effect for that kennel.
  - 2) The kennel permit issued by the Town of Mt Morris shall be separate and distinct from any kennel licensing by the federal government or the New York State Department of Agriculture and Markets, as well as permits issued pursuant to the Town of Mt. Morris Zoning Chapter and the New York State Uniform Fire Prevention and Building Code.
  - 3) There shall be a fee for such kennel permit, as well as any renewal thereof, the amounts of which shall be established by resolution of the Town Board. Such fee must be paid prior to issuance of the kennel permit or renewal thereof. Fees for kennel permits shall be based upon the maximum number of kennel spaces a structure contains. The fee for kennels that can house 11-25 dogs shall be no more than \$25.00 more than the fee for kennels that can house 1-10 dogs. The fee for kennels that can house 25+ dogs shall be no more than \$50.00 more than the fee for kennels that can house 11-25 dogs.
  - 4) The kennel permit application shall contain a certification by the applicant that the kennel is in compliance with all applicable federal, state and local laws, rules, and regulations, as well as any and all conditions of any license(s) which pertains to such kennel.
  - 5) The application form shall require disclosure of whether the applicant, property owner or operator of the kennel has ever been convicted of a crime involving animal cruelty or animal torture or determined to have violated any section of Article 26-A of the Agriculture and Markets Law of the State of New York.
  - 6) The kennel permit shall be valid for a period of one year from the date of issuance and shall be subject to annual renewal. The requirements of this article shall equally pertain to the renewal of such kennel permit.
- C. Kennel permit criteria
- 1) All kennel licenses and permits shall be prominently displayed on the kennel premises.
  - 2) A Town of Mt. Morris kennel permit may be denied or revoked based upon clear and convincing evidence that false information has been supplied in the application for such kennel permit, that the kennel's license, if any required, has been suspended, revoked, or otherwise terminated by an agency of the federal or state government or the conviction of the kennel permit holder of any crime involving animal cruelty, be determined to have violated any section of Article 26-A of the Agriculture and Markets Law of the State of New York or any section of Article 35-D of the General Business Law of the State of New York.
  - 3) Each kennel permit shall be valid for a period of one year and may be renewed annually subject to the provisions hereof.
- D. Administration
- 1) The Code Enforcer of the Town of Mt. Morris is authorized and directed to enforce the provisions hereof.
- E. Penalties for offenses
- 1) Any violation of the provisions of this article shall constitute a violation punishable by a fine not to exceed \$250.00, by incarceration for not more than 15 days, or both such fine and incarceration. In the event that any violation is ongoing or continuous, each twenty-four hour period thereof shall constitute a separate and distinct offense and may be prosecuted as such.



- 2) In addition to the foregoing remedies, an action or proceeding in the name of the Town of Mt. Morris may be commenced in any court of competent jurisdiction to compel compliance with or restrain violation of this article.

**§ 14-11. Seizure of Dogs; redemption; disposition; impoundment fee.**

The Dog Control Officer, or any peace officer, shall seize any unlicensed dog whether on or off the owner's premises and/or any dog not wearing a tag, not identified and not on the owner's premises as well as any dog found in violation of §14-5 A-I, §14-9 A-G of this chapter.

- A. If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of no less than five days.
- B. If a dog is wearing an identification number, the owner shall be promptly notified either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of no less than seven days; if notified by mail, no less than nine days.
- C. Prior to releasing a dog to its owner or adopting out a dog, the Dog Control Officer shall deliver to the owner a statement of number of days the dog has been in the shelter and the costs for any veterinarian care, to whom all fees due and owing for the shelter and veterinarian care shall be paid, together with the seizure and impoundment fees pursuant to Subsection D below to the Shelter Clerk. Payment of any outstanding licensing fees shall be paid to the Town Clerk prior to the release of the dog.
- D. The owner shall be responsible for redeeming the dog from the county and shall be responsible for any fees charged by the county.
- E. If not redeemed, the owner shall forfeit all title to the dog and it shall be released for adoption or euthanasia.

**§ 14-12. Record of seizure**

Upon taking custody of any animal, the Dog Control Officer, or any peace officer, shall make a record of the matter. The record shall include date of pickup, breed, general description, sex, identification numbers, time of pickup, location where seized and name and address of owner, if any.

**§ 14-13. Surrender of dogs or cats**

- A. The Dog Control Officer, in addition to the powers granted to him/her by law, may, upon the application of a resident and the surrender of a dog or cat accept:
  - 1) Any dog or cat for immediate adoption, in which case such dog or cat shall be kept for a maximum of five days and, if not adopted, shall be disposed of at the discretion of the shelter supervisor.

**§ 14-14. Adoption of dogs or cats**

- A. In the event an animal seized or surrendered to the Animal Shelter pursuant to this chapter and not identified shall be held for a period of three days. Thereafter, said animal shall become the property of the Animal Shelter and shall be made available for adoption.

**§ 14-15. Presumptions**

- A. The fact that a dog is without a tag attached to a collar, as provided by this chapter, shall be presumptive evidence that the dog is unlicensed.
- B. The person who last obtained a license for a dog pursuant to the provisions of this chapter shall be presumed, for purposes of this chapter, to be the owner of such dog.
- C. For purposes of this chapter, it shall be presumed that any unlicensed dog harbored in a one-family dwelling is owned by all adults residing in the one-family dwelling.

**§ 14-16. Constables**

- A. The Town Board may designate one or more Dog Control Officers to be Constables for the sole purpose of enforcing the state's humane laws pursuant to Article 26 of the Agriculture and Markets Law and for the purpose of enforcing the state's humane laws pursuant to Article 26 and for the purpose of issuing appearance tickets permitted under Article 7 of the Agriculture and Markets Law.
- B. Each designated employee prior to assuming the duties as a constable, shall meet the applicable training requirements for peace officers set forth in 2.30 of the Criminal Procedure law.

- C. Constables shall have the powers of peace officers set forth in 2.20 of the Criminal Procedure Law only to the extent reasonably necessary to enforce Articles 7 and 26 of the Agriculture and Markets Law. Constables shall not have the right to carry, possess, repair, or dispose of firearms unless authorized by the Town Board and unless the appropriate license thereof has been issued pursuant to 400.00 of the Penal Law.

#### **§ 14-17. Humane treatment of animals**

It shall be unlawful for any person in the Town of Mt. Morris to torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature. Any animal so treated shall be impounded by the Dog Control officer. The owner thereof shall be notified, in writing and by personal service or by regular mail, of the alleged violation, and the matter shall be referred to the Justice of the Peace for hearing and determination.

A. Tethering, restraining, caging or penning of dogs.

- 1) It shall be unlawful to tie, tether, restrain, cage or pen a working or non-working dog outdoors between the hours of 7 p.m. to 6 a.m.
- 2) A working dog may be tied, tethered, or restrained, caged or penned outdoors between the hours of 6 a.m. to 7 p.m., to a stationary object or a pen or cage in a sized pen or cage four times the height and length of said dog: provided that it is not in a manner that is not inhumane or detrimental to the dog's welfare, doesn't cause the dog to choke, permits the dog to escape harm, and permits the dog to reach food, water, shade, and dry ground.
- 3) The following shall also constitute prohibited conduct:
  - a) Tethering a dog with a tether less than eight feet in length.
  - b) Tethering a dog for a period in excess of one hour in blizzard, heavy rain, thunder and lightning, or a snowstorm generating more than six inches of accumulation.
  - c) Tethering, restraining, cage or pen a dog in climatic conditions such as extreme temperatures either freezing or heat without proper housing.

B. Minimum standards for outside shelter: Heating, ventilation, cleaning, construction.

- 1) Heat must be forced hot air or equivalent capable of maintaining a constant minimum floor level temperature of 55°F
- 2) Ventilation must be adequate to provide a sufficient supply of fresh or air-conditioned air, especially in the hot weather.
- 3) Cleaning: All cages, kennels, runs, dishes, litter pans, etc. must be scrubbed with hot water and soap weekly and disinfectant effective for disease control must be used in cleaning. Entire premises must be kept in sanitary condition. Animals must be removed from the cage, kennel, or run, while it is cleaned and not returned thereto until it is dry.
- 4) Construction:
  - a) Must have a waterproof roof.
  - b) Floors must be raised to a minimum of six inches from ground. Floors and walls (to a height of four feet) in kennels and runs must be of or coated with an impervious material to facilitate cleaning and runs must be sloped sufficiently to provide drainage.
  - c) Must be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather.
  - d) Cages and kennels must provide a minimum of 36 square feet of floor space for each dog. They must be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to turn around and lie down with its limbs outstretched. Each kennel can contain no more than two dogs, each cage can contain no more than one dog. Cages and kennels must have water and bedding available at all times. There must be sufficient four-foot by ten-foot outdoor runs to allow every adult dog to exercise at least twice daily; runs to be at least partially shaded.
  - e) Enclosure must allow for effective removal of excretions, other waste material, dirt, and trash.

- f) Animal separation: Unneutered males must be separated from unspayed females: injured animals separate from uninjured animals; aggressive animals and nursing animals are to be kept separate from all other animals.
- C. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding, a healthful environment in the area surrounding the enclosure, or the physical appearance of the dog.
- D. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

**§ 14-18. Regulations on breeding frequency and age**

- A. Female dogs shall not be bred unless they are at least eighteen months old and less than six years old.
- B. Female dogs shall not be bred more than once a year.
- C. A female dog shall not be bred more than four times in their lifetime.
- D. After a female dog has whelped four litters, the dog shall be retired from breeding regardless of her age.

**§14-19 Potentially rabid dogs**

- A. A Dog Control Officer or any police 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 companion animal. Any such dog shall be confined by the owner for such length of time as may be necessary for the purpose of determining whether such dog is affected by rabies, and if so infected, it shall be destroyed.
- B. The owner of such dog shall, upon demand, deliver the possession of such dog to a Dog Control Officer or any peace/police officer authorized to seize the same and shall, upon demand, pay to the town clerk the cost of confinement and treatment of the dog.

**§14-20 Enforcement; appearance tickets; penalties for offenses**

A. The Dog Control Officer and the Code Enforcement Officer of the Town shall, and peace officers may, administer and enforce the provisions of this chapter and for that purpose shall have authority to issue appearance tickets and to seize dogs, either on or off the owner's premises, if witnessed to be in violation of this chapter.

1) License Violations

	Initial Penalty	Penalty Upon Default
First Offense	\$50.00	\$75.00
Second Offense	\$100.00	\$150.00
Third Offense	\$200.00	\$200.00

2) Leash law and tethering violations

	Initial Penalty	Penalty Upon Default
First Offense	\$75.00	\$150.00
Second Offense	\$150.00	\$300.00
Third Offense	\$250.00	\$500.00

3) All other violations

	Initial Penalty	Penalty Upon Default
First Offense	\$100.00	\$200.00

Second Offense	\$200.00	\$400.00
Third Offense	\$300.00	\$600.00