

Chapter 5. ANIMALS.

NOTE. For municipal authority to regulate or restrict the running at large of dogs, see N.J.S.A. 40:48-1.

For state statutes relating to licensing, tagging, impounding, destruction or disposal of dogs and licensing, keeping and operating of kennels or pet shops and the like, see N.J.S.A. 4:19-15.1 et seq. License fees, registration tag fees, and certain costs and expenses incurred for the detention and maintenance of dogs, collected pursuant to this chapter, and fines are turned over and disposed of in accordance with, and as provided by, law, see N.J.S.A. 4:19-15.11. See also *Lamanna v. Kennedy*, 130 N.J.L. 223, 32 A. 2d 446 (Sup. Ct. 1943); *Blakely v. Moorestown*, 3 N.J. Super. 518, 67 A. 2d 330 (Law Div. 1949).

ANALYSIS

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Article 1. DOGS AND DOG ESTABLISHMENTS.

5-1. Definitions.

As used in this article:

Dog shall mean any dog, bitch or spayed bitch.

Dog of licensing age shall mean any dog which has attained the age of seven months or which possesses a set of permanent teeth.

Kennel shall mean any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

Owner, when applied to the proprietorship of a dog, shall mean and include every person having a right of property in such dog and every person who has such dog in his keeping.

Pet shop shall mean any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed.

Pound shall mean an establishment for the confinement of dogs seized either under the provisions of this article or otherwise.

Run at large shall include the running or standing of any dog, on any street or other public or private place, except on the property of the owner or custodian of the dog, unattended and not under the immediate control of some responsible person able to control such dog.

Shelter shall mean any establishment where dogs are received, housed and distributed without charge.

(Ord. #3-61, § 1)

5-2. License required; compliance with article.

No person shall own, keep or harbor any dog within the borough without first obtaining a license therefor, to be issued by the Borough Clerk or other official designated by the Council upon application by the owner and payment of the prescribed fee, and no person shall keep or harbor any dog except in compliance with the provisions of this Article.

(Ord. 3-61, § 2)

CROSS REFERENCE. For exemption from licensing requirements, see Sections 5-7 and 5-11. For exemption from fee requirements (but not license), see Section 5-4(b).

5-3. Annual license and registration tag required; placing tag on dog.

Any person who shall own, keep or harbor a dog of licensing age shall in the month of January of each year, and annually thereafter, apply for and procure from the Borough Clerk or other official designated by the Council a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each dog a collar or harness with the registration tag securely fastened thereto.

(Ord. #3-61, § 2)

5-4. Fees; expiration date of license and tag; Seeing Eye dogs exemption.

(a) The person applying for the license and registration tag during the month of January as required by Section 5-3 of this article shall pay a fee for the licensing of each dog and an additional sum for the registration tag of each dog, as set forth in the Fee Schedule of the Borough, Chapter 2, Section 2-46 of the Revised Ordinances. For each annual renewal, the fee for the license and for the registration tag shall be the same as for an initial license and tag, except that any person who should have procured a license and official metal registration tag pursuant to Section 5-3 of the Revised Ordinances of the Borough of Morris Plains during the month of January, but who failed to do so, shall pay a late fee as set forth in the aforesaid Fee Schedule in addition to the license and registration tag fees, together with any other fines due to summons issued that may be imposed on him for failure to obtain a dog license prior to February 1. Said licenses, registration tags and renewals thereof shall expire on the last day of January in each year.

(b) Dogs used as guides for blind persons and commonly known as "Seeing Eye" dogs shall be licensed and registered as other dogs as hereinabove provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefor.

(Ord. #3-61, § 4; #1-67, § 1; #18-79, § 1; #19-98, § 4)

CROSS REFERENCE. The registration tag fee of \$0.50 is forwarded to the State Department of Health. See Section 5-17 and also N.J.R.S. 4:19-15.11.

5-5. Time for applying for license and tag for newly acquired dog or for dog attaining licensing age.

The owner of any newly acquired dog of licensing age or of any dog which attains licensing age shall make application for license and registration tag for such dog within 10 days after such acquisition or age attainment.

(Ord. #3-61, § 5)

5-6. Time for applying for license and tag for dogs brought into borough.

(a) Any person who shall bring or cause to be brought into the borough any dog licensed in another state for the current year and bearing a registration tag and who shall keep the same or permit the same to be kept within the borough for a period of more than 90 days shall immediately apply for a license and registration tag for each such dog, unless a license for such dog is not required under Section 5-11.

(b) Any person who shall bring or cause to be brought into the borough any unlicensed dog and who shall keep the same or permit the same to be kept within the borough for a period of more than 10 days shall immediately apply for a license and registration tag for each such dog, unless a license for such dog is not required under Section 5-11.

(Ord. #3-61, § 5)

NOTE. Dogs brought into this state must be accompanied by a health certificate. See State Sanitary Code, Chapter III, Regulation 1.

5-7. License and tag issued in one municipality to be accepted in another.

Only one license and registration tag shall be required in any licensing year for any dog owned in New Jersey, and such license and tag issued by any other municipality of this state shall be accepted by the borough as evidence of compliance with Sections 5-3 and 5-4.

NOTE. State law requires that the license in one municipality be accepted in other municipalities. See N.J.S.A. 4:19-15.3.

5-8. Removal of tag forbidden; attaching tag wrongfully.

(a) No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any dog without the consent of the owner, nor shall any person attach a registration tag to a dog for which it was not issued.

(b) No licensed dog shall be allowed off the premises of the person harboring or keeping the dog, without the metal registration tag attached to its harness or collar.

(Ord. #3-61, § 3)

5-9. Contents of application; information to state department of health.

(a) The application shall state: the breed, sex, age, color and markings of the dog for which license and registration are sought; whether it is of a long-or short-haired variety; and the name, street and post office address of the owner and the person who shall keep or harbor such dog.

(b) The information on said application and the registration number issued for the dog shall be preserved for a period of three years by the Borough Clerk or other official designated by the Council. Registration numbers shall be issued in the order of the applications.

(c) The Borough Clerk or other official designated by the Council shall forward to the State Department of Health each month, on forms furnished by the said Department, an accurate account of registration numbers issued or otherwise disposed of.

(Ord. #3-61, § 6)

5-10. Restrictions as to keeping number of dogs.

No person who has not secured a license for a kennel, pet shop, shelter or pound shall keep or harbor more than three dogs at one time, puppies under four months old excepted. This provision shall not apply to persons who on April 13, 1961 were lawfully harboring dogs in excess of the limit herein set forth, provided that such owners did not thereafter acquire or harbor additional dogs in excess of said limit, and further provided that the harboring of such dogs does not create a nuisance.

(Ord. #3-61, § 7)

5-11. License to operate establishments for dogs; exemption for individual dog licenses.

(a) Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter or a pound shall apply to the Borough Clerk or other official designated to license dogs for a license entitling him to keep or operate such establishment. All licenses issued for such establishments shall state the purpose for which the establishment is maintained, shall expire on the last day of January of each year and shall not be transferable to another owner or different premises.

(b) Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments.

(Ord. #3-61, § 8)

5-12. Contents of application to operate establishments for dogs.

The application shall describe the premises where the establishment for a kennel, pet shop, shelter or pound is located or is proposed to be located, the purpose or purposes for which it is to be maintained and shall be accompanied by the written approval of the Zoning Officer and the Borough Board of Health showing compliance with the local and state rules and regulations governing the location of and sanitation at such establishments.

(Ord. #3-61, § 8)

5-13. Revocation of license to operate establishment for dogs.

All licenses issued for a kennel, pet shop, shelter or pound shall be subject to revocation by the borough on recommendation of the State Department of Health or the Borough Board of Health for failure to comply with the applicable provisions of this article, or the rules and regulations of the State Department of Health, or of the Borough Board of Health governing the same, after the licensee has been afforded a hearing by either the State Department of Health or the Borough Board of Health.

(Ord. #3-61, § 8)

5-14. License fees for dog establishments; payment with application; exemption for shelter or pound.

The annual license fee for a kennel providing accommodations for 10 or less dogs, a kennel providing accommodations for more than 10 dogs and for a pet shop shall be as set forth in the Fee Schedule of the Borough, Chapter 2, Section 246 of the Revised Ordinances. No fee shall be charged for a shelter or pound.

(Ord. #3-61, § 9; 19-98, § 5)

5-15. List of licensed dog establishments to be forwarded to state department of health.

The Borough Clerk or other official designated to license dogs in the borough shall forward to the State Department of Health a list of all kennels, pet shops, shelters and pounds licensed, within 30 days after the licenses therefor are issued, which list shall include the name and address of the licensee and the kind of license issued.

(Ord. #3-61, § 10)

5-16. Permitting dogs off premises of establishments for dogs.

No dog kept in a kennel, pet shop, shelter or pound shall be permitted off such premises, except on leash or in a crate or under other safe control.

(Ord. #3-61, § 11)

5-17. Disposition of moneys.

(a) License or other moneys collected under the provisions hereof, except those paid to the state, shall be turned over to the Treasurer within 30 days of collection. The fees collected shall be accounted for and spent in accordance with N.J.S.A. 4:19-15.11, as amended.

(b) The registration tag fee for each dog shall be forwarded within 30 days after collection by the Borough Clerk, or other official designated to license dogs in the borough.

(Ord. #3-61, § 12; #19-98, § 6)

5-18. Biennial canvass; report.

The Chief of Police or such other person appointed for the purpose by the Council shall biennially cause a canvass to be made of all dogs owned, kept or harbored within the limits of the borough. He shall report on or before September 1 of the year in which the census is taken, to the Borough Clerk or other official designated to license dogs in the borough, to the Borough Board of Health and to the State Department of Health the result thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring such dogs, the number of licensed dogs owned, kept or harbored by

each of said persons, together with the registration numbers of each of said dogs, and the number of unlicensed dogs owned, kept or harbored by each of said persons, together with a complete description of each said unlicensed dog.

(Ord. #3-61, § 13; #18-96, § 2)

5-19. Prohibited conduct.

No person owning, keeping or harboring a dog shall permit, suffer or allow said dog to:

- (a) Run at large within the limits of the borough;
- (b) Be off the premises of such owner or person so harboring said dog or upon a street or other public place in the borough, except when restrained by a leash or when otherwise under the strict control of some responsible person able to control said dog;
- (c) Cause any injury to any person;
- (d) Do any damage to any shrub, tree or other property in any street, park or other public place in the borough; provided, however, that any dog on a leash may deposit urine or feces between the curblines on the roadway of any public street, provided that:
 - (1) The person in charge of said dog shall have in his possession appropriate sanitary means, including but not limited to implements and plastic bags, to remove any feces so deposited.
 - (2) The person in charge of said dog shall immediately remove all feces so deposited by appropriate sanitary means, including but not limited to implements and plastic bags, and shall dispose of such feces in a sanitary manner.
 - (3) No blind person in charge of a guide dog shall be subject to the provisions of Paragraph (d)(1) and (2) of this section.
- (e) Soil or defile or commit any nuisance upon any sidewalk, pedestrian street crossing, school yard or municipal playground;
- (f) Habitually bark, howl or cry. The habitual barking, howling or crying of a dog or dogs in the borough is hereby declared to be a disturbing noise within the meaning of N.J.S.A. 40:48-1, subsection (8), and a nuisance;
- (g) Be or become a public nuisance, or to create a condition hazardous to safety and health;
- (h) Do any injury or to do any damage to any lawn, shrubbery, flowers, grounds or property.

(Ord. #3-61, § 14; #20-84, § 1)

5-20. Appointment of dog officials; enforcement of article.

(a) The Mayor, with the consent of the Council, is hereby empowered to appoint a Poundmaster, Dog Warden or Dog Catcher, or he may designate some authority to enforce the provisions of this article.

(b) The Council may by resolution enter into a contract with any humane society, animal shelter or similar association or with one or more persons, either individual or corporate, to exercise the duties of Dog Warden or Poundmaster and to enforce this article.

(c) All police officers of the borough, regular and special, are hereby given full power and authority and are charged with the duty to enforce this article.

(Ord. #3-61, § 15)

5-21. Seizure of dogs; entry upon premises for such purpose.

Any officer or agent authorized or empowered to perform any duty under this article is hereby authorized to go upon any premises to seize for impounding any dog or dogs which he may lawfully seize and impound when such officer is in immediate pursuit of such dog or dogs, except upon the premises of the owner of the dog if said owner is present and forbids the same.

(Ord. #3-61, § 17)

5-22. Dogs to be taken into custody and impounded.

(a) The Poundmaster, Dog Warden or Dog Catcher, or other designated authority, or any police officer of the borough shall take into custody and impound or cause to be taken into custody and impounded, and thereafter destroyed or disposed of as hereafter provided in this section:

(1) Any dog running at large or any dog off the premises of the owner or of the person keeping or harboring said dog, contrary to any of the provisions of Section 5-19 of this article, or which is committing a nuisance, or doing any injury or damage in violation thereof.

(2) Any dog off the premises of the owner or of the person keeping or harboring said dog which the Dog Warden or any of the other persons charged with the enforcement of this article believes to be a stray dog.

(3) Any dog off the premises of the owner or of the person keeping or harboring said dog without a current registration tag on his collar.

(4) Any female dog in season off the premises of the owner or of the person keeping or harboring said dog, except when on leash and in control of a responsible person capable of maintaining such control.

(5) Any dog on the premises of the owner which gives evidence of being mad and vicious or dangerous to public health and safety.

(6) Any dog which the owner or persons keeping or harboring said dog wishes to dispose of and to which he renounces ownership, custody and control, in writing.

(b) If any dog so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring said dog is known, the Poundmaster, Dog Warden or Dog Catcher, or any other official charged with the enforcement of this article, or any person authorized by them on their behalf shall forthwith serve on the person whose address is given on the collar, or on the owner or the person keeping or harboring said dog, if known, a notice in writing stating that the dog has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the service of the notice.

(c) A notice under Paragraph (b) of this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of abode, or at the address given on the collar, or by forwarding it by mail in a prepaid letter addressed to that person at his usual or last known place of abode, or to the address given on the collar.

(d) When any dog so seized has been detained for seven days after notice, when notice can be given as above set forth in this section, or has been detained for seven days after seizure, when notice has not been and cannot be given as above set forth in this section, and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention, and, if the dog be unlicensed at the time of the seizure and the owner or person keeping or harboring said dog has not produced a license and registration tag for said dog, the Poundmaster, Dog Warden or other designated authority, or any person authorized by them in their behalf, may cause the dog to be destroyed in a manner causing as little pain as possible.

(e) When any dog shall be delivered under Subparagraph (a)(6) of this section, no notice to the owner shall be required, unless the person delivering the said dog is someone other than the owner, in which event the foregoing procedure shall be followed; if the person delivering the said dog is the owner, the Dog Warden or any person so authorized may forthwith destroy the dog in a manner causing as little pain as possible.

(Ord. #3-61, §§ 16,18)

5-23. Impounding fees; production of license and tag.

(a) There shall be charged to the owner or person keeping or harboring each dog which is impounded, pursuant to Section 5-22(a)(1) to (a)(5) hereof, a fee for picking up each dog plus a per day maintenance fee for each day, or part thereof, that the dog has

been impounded as set forth in the Fee Schedule of the Borough, Chapter 2, Section 246, which fees shall be paid when the dog is released.

(b) No impounded dog may be claimed unless a license and registration tag can be produced for said dog.

(Ord. #3-61, § 19; #19-98, § 7)

5-24. Interference forbidden.

No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this article.

(Ord. #3-61, § 20)

5-25. Veterinarian's establishment exempt from licensing requirements.

No licensing provision of this article shall be construed to apply to any establishment wherein or whereon dogs are received or kept for diagnostic, medical, surgical or other treatments, owned by and operated under the immediate supervision of a graduate veterinarian licensed in the state of New Jersey.

(Ord. #3-61, § 21)

5-26. Violations and penalties.

(a) Any person who violates or fails or refuses to comply with Sections 5-2, 5-3, 5-5, 5-6, 5-8, 5-11, 5-16 and 5-24 of this Article or with the rules and regulations promulgated by the State Department of Health pursuant to the provisions of N.J.S.A. 4:19-15.14, as amended and supplemented, shall be liable to a penalty of not less than five dollars (\$5.) nor more than fifty dollars (\$50.) for each offense, to be recovered by and in the name of the borough, except that for the first offense in cases of violations of Section 5-2, 5-3, 5-5 or 5-6 of this Article, the penalty shall be not less than one dollar (\$1.) nor more than fifty dollars (\$50.), to be recovered in a like manner.

(b) Any person who violates or fails or refuses to comply with Section 5-10 or 5-19 of this Article shall, upon conviction thereof, be punished by a fine not exceeding fifty dollars (\$50.) or by imprisonment for a term not exceeding thirty (30) days, or both. A separate offense shall be deemed committed upon each day during or on which a violation of Section 5-10 occurs or continues.

(Ord. #3-61, § 23)

Article 2. CATS.

5-27. Definitions.

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

Cat shall mean any member of the domestic feline species; male, female or altered.

Cat of licensing age shall mean any cat which has attained the age of seven (7) months or which possesses a set of permanent teeth.

Animal shall mean, for the purpose of this Article, dog or cat.

Animal control authority shall mean any person or agency certified by the State of New Jersey and designated by the Borough of Morris Plains to enforce the provisions of this chapter.

Owner shall include, when applied to the proprietorship of a cat, every person having a right of property or custody in such cat, and every person who has such cat in his/her keeping or who harbors or maintains a cat or knowingly permits a cat to remain on or about any premises occupied by that person.

Cattery shall mean any room or group of rooms, cage or exhibition pen, not a part of a kennel, wherein cats for sale are kept or displayed.

Licensing authority shall mean the Borough Clerk or other official designated by the Borough Council to administer the issuance of licenses under the provisions of this chapter.

Neutered shall mean rendered permanently incapable of reproduction as certified by a licensed veterinarian.

(Ord. #18-89, § 1)

5-28. Vaccination and licensing requirements.

(a) Vaccination and license requirements. No person shall own, keep, harbor or maintain any cat of licensing age within the Borough of Morris Plains unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held in a cattery; or those held by a state- or federal-licensed research facility; or a veterinary establishment where cats are received or kept for diagnostic, medical, surgical or other treatments; or licensed animal shelters, pounds, kennels or pet shops.

(b) Vaccination. All cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization, published by the National Association of State Public Health Veterinarians, except as provided for in Paragraph (d).

(c) Vaccination certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated, on a form recommended by the state.

(d) Exemptions. Any cat may be exempted from the requirements of such vaccination for a specified period of time by the animal control authority, upon

presentation of a veterinarian's certificate stating that because of an infirmity or other physical condition or regimen of therapy, the inoculation of such cat shall be deemed inadvisable.

(Ord. #18-89, § 1)

5-29. License required; compliance.

No person shall own, keep or harbor any cat within the borough without first obtaining a license therefor, to be issued by the Borough Clerk or other official designated by the Borough Council, upon application by the owner and payment of the prescribed fee, and no person shall keep or harbor any cat except in compliance with the provisions of this Article.

(Ord. #18-89, § 1)

5-30. License and registration tag.

Any person who shall own, keep or harbor a cat of licensing age shall, in the month of January of each year and annually thereafter, apply for and procure from the Borough Clerk or other official designated by the Borough Council a license and official registration tag with license number or a registration sleeve for each cat so owned, kept or harbored and shall place upon such cat a collar or other device, with the license number securely fastened thereto.

(Ord. #18-89, § 1)

5-31. Fees; expiration of license and tag.

The person applying for the license and registration tag during the month of January as required by Section 5-29 of this Article shall pay a fee for the licensing of each cat and an additional sum for the registration tag of each cat, as set forth in the Fee Schedule of the Borough, Chapter 2, Article 8, of the Revised Ordinances. For each annual renewal, the fee for the license and for the registration tag shall be the same as for an initial license and tag, except that any person who should have procured a license and official metal registration tag pursuant to Section 5-29 during the month of January, but who failed to do so, shall pay a late fee as set forth in the aforesaid Fee Schedule in addition to the license and registration tag fees, together with any other fines due to summons issued that may be imposed on him for failure to obtain a cat license prior to February 1. Said licenses, registration tags and renewals thereof shall expire on the last day of January in each year.

(Ord. #18-89, § 1)

5-32. Time for licensing cats of age.

The owner of any newly acquired cat of licensing age or of any cat which attains licensing age shall make application for license and registration tag for such cat within ten (10) days after such acquisition or age attainment.

(Ord. #18-89, § 1)

5-33. Cats brought into borough.

(a) Any person who shall bring or cause to be brought into the borough any cat licensed in another state for the current year and bearing a registration tag and who shall keep the same or permit the same to be kept within the borough for a period of more than ninety (90) days shall immediately apply for a license and registration tag for each such cat.

(b) Any person who shall bring or cause to be brought into the borough any unlicensed cat and who shall keep the same or permit the same to be kept within the borough for a period of more than ten (10) days shall immediately apply for a license and registration tag for each such cat.

(Ord. #18-89, § 1)

5-34. Licenses issued outside municipality.

Only one (1) license and registration tag shall be required in any licensing year for any cat owned in New Jersey, and such license and tag issued by any other municipality of this state shall be accepted by the borough as evidence of compliance with Sections 5-29 and 5-30.

(Ord. #18-89, § 1)

5-35. Removal of tags.

(a) No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any cat without the consent of the owner, nor shall any person attach a registration tag to a cat for which it was not issued.

(b) No licensed cat shall be allowed off the premises of the person harboring or keeping the cat without the metal registration tag attached to its collar.

(Ord. #18-89, § 1)

5-36. Contents of application.

(a) The application shall state the breed, sex, age, color and markings of the cat for which a license and registration are sought and the name, street and post office address of the owner and the person who shall keep or harbor such cat.

(b) The information on said application and the registration number issued for the cat shall be preserved for a period of three (3) years by the Borough Clerk or other official designated by the Borough Council. Registration numbers shall be issued in the order of the applications.

(Ord. #18-89, § 1)

5-37. Biennial canvass; report.

The Chief of Police or such other person appointed for the purpose by the Borough Council shall biennially cause a canvass to be made of all cats owned, kept or harbored within the limits of the borough. He shall report on or before September 1 of the year in which the census is taken to the borough the result thereof setting forth in separate columns the names and addresses of persons owning, keeping or harboring such cats, the number of licensed cats owned, kept or harbored by each of said persons and the number of unlicensed cats owned, kept or harbored by each of said persons, together with a complete description of each said unlicensed cat.

(Ord. #18-89, § 1; #18-96, § 4)

5-38. Violations and penalties.

(a) Any person who violates or fails or refuses to comply with the provisions of this article shall be liable to a penalty of not less than \$5 nor more than \$50 for each offense, to be recovered by and in the name of the borough, except that for the first offense in cases of violations of Section 5-28, 5-29, 5-31, 5-32 or 5-34 of this article, the penalty shall be not less than \$1 nor more than fifty dollars (\$50.), to be recovered in like manner.

(Ord. #18-89, § 1)

5-39. When effective.

This article shall take effect on January 1, 1990.