

Town of Bellmont
Town of "Beautiful Mountains"
Founded May 1, 1833
9 Hill Road
PO Box 35
Brainardsville, NY 12915

RESOLUTION #75 OF 2010

Town Supervisor:

H. Bruce Russell 2011
 PH 518-483-3613
 FAX 518-483-2677

Town Council:

Wayne Rogers 2013
 518-483-7848

Rose Marshall 2013
 518-483-1855

Harley Titus 2011
 518-425-6638

Ann Perry 2011
 518-425-3549

Highway Superintendent:

Kenneth Marshall
 2011
 518-483-2227

Town Clerk:

Judylane Nason 2011
 518-483-2728

Town Justice:

Joseph Perry
 518-425-3349

Code Officers:

John Perry
 518-425-3405

John Smith
 518-497-3130

Tax Collector

Nicole Soulia 2011
 518-483-4275

BE IT RESOLVED THAT in the interest of preserving public peace and good order in the Town of Bellmont and to promote the public 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 Bellmont.

THEREFORE The Town Of Bellmont does adopt Local Law #5 of 2010 Dog Licensing and Control Law Of The Town Of Bellmont and understand that this law will replace all other Local Laws controlling dogs in the Town of Bellmont.

Motion: Ann Perry

Second: Wayne Rogers

<u>Name</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Rose Marshall	X		
Ann Perry	X		
Wayne Rogers	X		
Harley Titus	X		
H. Bruce Russell	X		

Town Clerk: Judylane Nason

Date: December 13, 2010

Town of Bellmont
Town of "Beautiful Mountains"
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9 Hill Road
PO Box 35
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RESOLUTION # 76 OF 2010

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BE IT RESOLVED the fee for licensing dogs as required by Local Law #5 of 2010, Dog Licensing and Control Law Of The Town Of Bellmont, Section VI shall be as follows: For spayed and neutered dogs \$10.00, for non-spayed and non-neutered dogs \$25.00, for Pure-Breed dogs 1-10 the fee is \$15.00 per dog and for 11-25 dogs the fee is \$25.00 per dog. These prices include tags.

The fine for having a dog without a proper license after this law has been in effect for four months shall be as follows: first offense \$30.00 per dog, second offense \$40.00 per dog, and third offense shall be \$50.00 per dog.

Motion: Rose Marshall

Second: Ann Perry

<u>Name</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Rose Marshall	X		
Ann Perry	X		
Wayne Rogers	X		
Harley Titus	X		
H. Bruce Russell	X		

Town Clerk: Judylane Nason

Date: December 13, 2010

Copy

Local Law Filing

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

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~~ of Bellmont
Town
~~Village~~

Local Law No. Five of the year 2010

A local law Dog Licensing and Control Law of the Town of Belmont
(Insert Title)

Be it enacted by the Bellmont Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Bellmont as follows:
Town
~~Village~~

*Replaces Local Law 1 of 1988 and
Local Law 2 of 1988.*

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

LOCAL LAW FIVE OF 2010

DOG LICENSING AND CONTROL LAW OF THE TOWN OF BELLMONT

SECTION I TITLE

The title of this law shall be “DOG CONTROL LAW OF THE TOWN OF BELLMONT.”

SECTION II AUTHORITY

This local law is enacted pursuant to Article 7 of the Agricultural and Marketing Law of the State of New York, together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated herein, except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply and enforcement of this local law is intended by application of the penal law.

SECTION III PURPOSE

The purpose of this law shall be to preserve public peace and good order in the Town of Bellmont and to promote the public 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 Bellmont. This law shall prevent the running at large and other uncontrolled behavior of dogs that create a public nuisance within the Town of Bellmont.

SECTION IV DEFINITIONS OF TERMS

For the purpose of this local law, the terms as hereinafter used are defined as follows:

AGRICULTURE AND MARKETS LAW: The Agriculture and Markets Law of the State of New York, in effect during the life of this law. The Agricultural and Markets Law shall be abbreviated as AML within this law. All terms defined in Section 108 of AML shall have the same meaning as used herein unless specifically modified.

DOG: The term “dog” shall mean both male and female, licensed or unlicensed, a member of the Species *Canis familiaris*.

DOG OWNER: A dog owner is the person, persons, firm, association, or corporation who:
Purchased the license for the dog and is the registered owner, or
Professes ownership of the dog, or

Has custody and control of the dog, or

Harbors for at least one week or is otherwise responsible for the dog, or

Is the parent, guardian, or head of household of the minor under 18 years of age who owns or harbors the dog or brings into or permits the dog to come into the Town of Bellmont.

For proof purposes, any person harboring, possessing, or controlling a dog for a period of one week prior to the filing of any complaint charging a violation of this local law or AML, shall be held and deemed to be the owner of such dog for the purpose of this local law. Parents, guardians or head of household, as mentioned above, shall be deemed to have custody and control of dogs owned and harbored by minors and shall be responsible for compliance with this local law and AML in the Town of Bellmont.

RUN AT LARGE: The term “run at large” shall mean an unleashed dog off the premises of the owner thus on private or public land without the knowledge, consent, and approval of the land owner. This also would include public highways.

KENNEL: A kennel is a facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale.

LEASHED: The term shall mean restrained by a leash attached to the dog’s collar or harness of sufficient strength to restrain the dog and which shall be held by a person having the ability to control the dog.

POUND: A place, enclosed by authority, in which stray or unclaimed dogs may be held by the Dog Control Officer.

DOG CONTROL OFFICER: This is the person appointed by the Town Board of the Town of Bellmont to enforce this law.

PUREBRED BREEDER: This is a person, firm, partnership, or corporation in the business of breeding and raising purebred dogs for show, competition, or sale.

RECREATIONAL AREAS: This is an area owned by the Town, County or State set aside and used for recreational purposes by the public, including but not limited to parks or playgrounds.

SECTION V LICENSING

All dogs within the Town of Bellmont shall be identified, licensed, and vaccinated in accordance with the requirements of Article 7 of the AML, particularly Section 109 thereof and in accordance with any Town of Bellmont Local Law.

SECTION VI LICENSING FEES AND THEIR DISPOSITION

As authorized by Section 110 of the AML and as required for controlling dogs, the fees for licensing dogs will be in accordance with any Town of Belmont Local Law or Resolution in effect during the life of this local law.

SECTION VII DOG CONTROL OFFICER

The Town Board of the Town of Belmont will by special resolution annually appoint a person as Town Dog Control Officer as required by Section 114 of AML, setting compensation therein. Such officer shall have authority as set forth on Subdivision 4 of Section 114 of AML and shall be responsible for enforcing AML and this Local Law of the Town of Belmont. The Town Dog Control Officer is hereby authorized pursuant to the Criminal Procedure Law, to serve the summons and to serve and execute any other order or process in the execution of the provisions of this Local Law as specified in Sections 114.4 and 124.2 C of AML. The Dog Control Officer shall maintain all reports required by Article 7 of AML, specifically Subdivisions 5 and 6 of Section 114 of AML.

SECTION VIII RESTRICTIONS

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

- A. Run at large and not be confined, unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by command, or is on its owner's property.
- B. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably or habitually disturb the comfort or repose of any person other than the owner of the dog.
- C. Uproot, dig into, upset, or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers, or other property not belonging to the owner of the dog.
- D. Destroy, kill, or damage any poultry, livestock, or domestic pets not belonging to the owner of the dog.
- E. Destroy, kill or damage any wildlife.
- F. Chase, jump upon or otherwise harass any 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 except when such a person may be on the owner's private property without said owner's consent.
- G. Habitually chase, run alongside or bark at motor vehicles, cyclists, and or pedestrians while on a public street or highway or upon public or private property, other than property of the owner of said dog.
- H. Create a nuisance by defecating, urinating or digging on public or private property, other than the property of said dog owner.

- J. Allow a female dog to be off the owner's premises when it is in heat except when transporting such dog to a veterinarian's office or when involved in a formalized controlled breeding program.
- K. Run at large in a recreational area or on the sidewalks adjacent thereto.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the dog's owner that he or she has failed to properly confine, leash or control his or her dog.

SECTION IX SEIZURE OF DOGS

- A. Town of Belmont Dog Control Officer and or Police Officers may seize any dog found:
 - 1. Not to be identified and not on the owner's property or not to be licensed whether on the owner's property or not (AML 118) or
 - 2. Any dog found running at large in violation of the Section VIII restrictions.
- B. Officers may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog, and such dog shall be impounded or disposed of pursuant to Section 118 of AML. Officers are not authorized, hereby, to enter a building in order to seize a dog without permission from the owner or occupant of the building. When permission is not given and the probable cause exists to believe that a dog is in the building and is in violation of the AML or this Local Law, the Dog Control Officer shall obtain a warrant to enter the building to seize the dog by application of the Criminal Procedure Law Article 690. The Town Dog Control Officer will maintain records of seized, impounded, forfeited, and adopted dogs as required by Section 118. AML.
- C. The seizure of any dog shall not relieve any owner from any violation provided for by AML or this Local Law.
- D. No liability in damages or otherwise shall be incurred on account of the seizure or impoundment of any dog seized pursuant to this Local Law on the part of the Town of Belmont's Dog Control Officer or police officers (see AML Section 118.11).

SECTION X HOLDING PERIODS AND IMPOUNDMENT FEES

Following seizure of a dog pursuant to this Local Law, it shall be impounded pursuant of Section 118 AML and the holding period and fee will be set forth in Section 18 of this Local Law. Prior to the dog's release from the pound all impoundment fees shall be paid to the Town of Belmont at the Town Clerk's Office during normal working hours, Monday thru Friday..

SECTION XI DOG FORFEITURE, ADOPTION

All dogs seized pursuant to this Local Law will be subject to forfeiture or adoption as set forth in Section 118 AML and the county rules and regulations. The Town hereby encourages that all dogs adopted following seizure pursuant to this Local Law be spayed or neutered before release from impoundment.

SECTION XII ENFORCEMENT

This Local Law may be enforced by either the Town Dog Control Officer or State Police Officer.

SECTION XIII VIOLATIONS

It shall be a violation, punishable as provided in Section 119 of AML for:

- A. Any dog owner to fail to license any dog.
- B. Any dog owner to fail to have any dog identified as required by AML Section 112.
- C. Any dog owner to knowingly affix any false or improper identification tag.
- D. Any dog owner to violate any of the restrictions listed in this Local Law.

Upon a violation of this Local Law, the Town Dog Control Officer and or police officer may proceed in accordance with Section 119 of the AML.

Fines and penalties for any violation of this Local Law will be in amounts set forth in Section 119 of AML and Section XVIII of this Local Law.

Violations of this Local Law will be prosecuted pursuant to the Penal Law (Section 119.2 of AML).

The Town Dog Control Officer shall serve appearance tickets personally upon violating dog owners as required by law.

SECTION XIV DANGEROUS DOGS

Dogs believed to be dangerous to human beings, domesticated or protected animals will be proceeded against pursuant to Section 121 of AML.

SECTION XV DISPOSITION OF FINES, PENALTIES, AND OR BAIL FORFEITURES

All money collected by the Town Court as a fine, penalty and or bail forfeiture pursuant to this Local Law or Article 7 of AML shall become the property of the Town of Belmont.

SECTION XVI COMPLAINTS

- A. Any person who observes a dog in violation of this Local Law may file a complaint with the Town Dog Control Officer and or State Police, specifying the nature of the violation observed, the location, the date of occurrence, a description of the dog and the name and address, if known, of the owner of the dog.
- B. Upon receipt by the Town Dog Control Officer or State Police Officer of any such complaint, He or she may investigate said complaint, or he or she may summon the alleged owner to appear in person before the Town Justice for a hearing, at which time, both the complainant and the owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he or she may so order.

SECTION XVII OBSTRUCTION OF GOVERNMENTAL ADMINISTRATION

No person shall hinder, resist, or oppose the Town Dog Control Officer, any Police Officer, or other persons authorized to administer or enforce the provisions of this Local Law in the performance of the officer's duties under this law.

SECTION XVIII REDEMPTION FEES

The owner of said dog seized by the Town Dog Control Officer shall reimburse the Town of Bellmont for all expenses incurred by said Town Dog Control Officer in the normal course of his or her duties. Town fees include mileage, hourly wage and seizure fees, with a minimum of \$50.00 per dog, as set forth in AML 118C and by resolution of the Town of Bellmont's Town Board at their annual reorganization meeting held the first meeting each year.

SECTION XIX SEVERABILITY

If any clause, sentence, paragraph, section or part of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remedies thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION XX ENACTMENT CLAUSE

This Local Law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. Five of 20 10 of the ~~(County)(City)(Town)(Village)~~ of Bellmont was duly passed by the Bellmont Town Board on December 13, 20 10, in accordance with the applicable provisions of law.
(Name of Legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph #1, above.

Judylane Nason

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12-13-2010

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County _____
City of _____
Town _____
Village _____

Date: _____