

**TOWN BOARD APPROVED THE DOG CONTROL AND LICENSING
LAW FOR THE TOWN OF WILMINGTON. LOCAL LAW # 4 OF 2010.**

TOWN OF: **WILMINGTON** (Essex County)
State of New York

LOCAL LAW: No. 4 of 2010

A LOCAL LAW: **DOG CONTROL AND LICENSING LAW
FOR THE TOWN OF WILMINGTON**

BE ENACTED BY THE: **TOWN BOARD** of the

TOWN OF **WILMINGTON** as follows:

Section 1 **Purpose:** The Town Board of the Town of Wilmington 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 Local Law is to protect the health, safety and well being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Town.

Section 2 **Authority:** This Local law is enacted pursuant to the provisions of (Article 7, chapter 59, Part T) of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

Section 3 **Title:** The title of this Local Law shall be the Dog Control and Licensing Law of the Town of Wilmington.

Section 4 **Definition of Terms:** As used in this Local law the following words shall have the following respective meanings:

- a. "Dog" means male and female, licensed or unlicensed, members of the species *canis familiaris*.
- b. "Owner" means person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost and such loss was promptly reported to the dog control officer and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation, who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this Local Law, shall be held as and deemed to be the owner of said dog if any owner who is under 18 years of age and is found to be in violation of the within Law, said violation shall become the responsibility of the head of the household in which said minor 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 Local Law.
- c. "Leashed" means restrained by a leash which is attached to a 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.
- d. "Tag" means the prenumbered Town tag with license identification number. This tag is permanent. The dog will only receive one of these.

e. "License" means the annual renewal of the dog license. The license will be issued by the Town Clerk with the "tag" number" on it. Licenses can be purchased for a period of one year. As of January 1, 2011, multiple year licenses issued under NYS Dept. Agriculture & Markets will be honored if rabies vaccination has not expired.

f. "Run at large" means to be in a public place or on private land without the knowledge, consent and approval of the owner of such lands.

g. "Town" means the Town of Wilmington, Essex County, State of New York.

Section 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 this Local Law, 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 and loud howling, barking, crying or whining or conduct as to unreasonably and habitually disturb the comfort or response of any person other than the owner of such dog.

c. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner.

d. Chase, jump upon 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 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. Create a nuisance by defecating, urinating or digging on public property or upon private property without the consent or approval of the owner of such property

g. Kill or injure any dog, cat, other household pet or domestic animals.

h. If an unspayed female dog, when in heat, be off the owner's premises, unrestrained by a leash.

Establishment of the fact(s) that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by this Section 5 of this law shall be presumptive evidence against the owner of such dog that he or she has failed to properly confine, leash or control such dog.

Section 6 **Licensing of Dogs**

a. All dogs in the Town of Wilmington must be licensed with the Town Clerk by the age of 4 months and are required to present a current Certificate of Rabies Vaccination at the time of licensing or the renewal of an existing license.

b. Licenses may be purchased for a period of one year.

c. **Fees for Licensing of Dogs:** The fee for a spayed or neutered dog will be \$10.00 per year (which includes the assessment of a \$1.00 for the purpose of carrying out animal population control) and the fee for unspayed or unneutered dog will be \$20.00 (which includes assessment of a \$3.00 surcharge for the purpose of carrying animal population control) with such fees being reviewed by the Town Board periodically and which may be changed by a resolution of the Town Board, if deemed necessary

d. **Enumeration Fee:** When the Town Board determines the need for a dog enumeration, a fee of \$10.00 will be assessed for each dog found unlicensed or renewed at the time the enumeration is conducted.

e. **Purebred License:** The Town of Wilmington will **NOT** be issuing Purebred licenses. All dogs will be licensed individually as per fee system stated above

f. **Service Dogs:** The Town of Wilmington will **NOT** require a license for any guide dog, service dog, hearing dog or detection dog.

g. The Town of Wilmington **DOES NOT ALLOW** the licensing of dogs by a shelter. The shelter must send the adoptive dog information to the Town Clerk of the Town or City in which the dog will be harbored for licensing OR to the Town Clerk of the Town of Wilmington if the dog is harbored in the Town of Wilmington.

h. All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be **NO** refund of fees.

i. All fees will be used in funding the administration of this Dog Control and Licensing Law in the Town of Wilmington

j. **Fees for Seizure of Dogs.** The fee for seizure and impoundment of dogs in violation of this law or the Laws of the New York State Department of Agriculture and Markets Law are as follows: **First Offense:** \$25.00 **Second Offense:** \$60.00 plus the impoundment fee per animal.

Section 7 **Procedure for Seizure of Dogs**

a. The Dog Control Officer or any peace officer shall seize:

1. Any unlicensed dog whether on or off the owner's premises

2. Any dog not wearing a tag, and after June 15, 1985, not identified, and which is not on the owner's premises

3. Any dog found in violation of paragraphs a-h of Section 5 of this Local Law. Such seized dog shall be kept and/or disposed of in accordance with the provisions of Article 7 of Agriculture and Markets Law and see that the order of the Town Justice of the Town of Wilmington in such case is carried out.

b. The Dog Control Officer or peace officer observing a violation of this Law in his presence shall issue and serve an appearance ticket for such violation. Said Law should be considered a Petty Offense and not a Misdemeanor.

c. Any person who observes a dog in violation of this Local Law may file a complaint under oath with the Town Justice of the Town of Wilmington specifying the nature of the violation, the date thereof, a description of the dog and the name and a residence, if known, of the owner of such dog. Such complaint may serve as a basis for enforcing the provisions of this Local Law.

d. No action shall be maintained against the Town of Wilmington, any duly designated Dog Control Officer, or any other agent or officer of the Town, to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law.

Section 8 **Penalties.** Any person convicted of a violation of this Local Law shall be liable for a civil penalty of \$25.00 for the first violation; of \$50.00 for a second violation and \$75.00 for each subsequent violation

Section 9 **Separability:** Each separate provision of this Local Law shall be deemed independent of all other provisions hereof and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable

Section 10 **Repealer:** This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the control of dogs within the Town of Wilmington, and they shall be upon the effectiveness of this Local Law, null and void

Section 11 **Effective Date.** This Local Law shall be effective January 1, 2011, after filing with the Secretary of State

I hereby certify that the local law annexed hereto, designated as LOCAL LAW #4 of 2010 of the Town of Wilmington (Essex County), New York, was duly adopted by the Town Board on 12-14, 2010 in accordance with the applicable provisions of law

12-15-2010

Dated



Gerald Bruce, Town Clerk

TOWN OF WILMINGTON (Essex County)

7 Community Center Circle, PO Box 180

Wilmington, NY 12997

Tel (518) 946-2105; Fax (518) 946-7124

WHEREAS, a public hearing was held at the time and place aforesaid in the manner described at which Time all persons interested in the subject matter were given an opportunity to be heard;

NOW THEREFORE, upon the evidence given at the public hearing described herein, it is hereby determined as follows:

1. The notice of the public hearing described in the preambles hereof was posted and published as required by law and is in all respects satisfactory.
2. The Town clerk shall record a copy of this order in the office of the County Clerk of Essex County as required under Section 195 of the Town Law of the State of New York.
3. This Law will take effect 1/1/2011.

Dated December 14, 2010

TOWN BOARD OF THE TOWN OF WILMINGTON

SUPERVISOR-RANDY PRESTON



COUNCILMAN- STEVE CORVELLI



COUNCILMAN- DARIN FORBES



COUNCILWOMAN-DAWN STEVENS



COUNCILWOMAN-RARILEE CONWAY

