

LOCAL LAW NO. 1 OF 2009
A LOCAL LAW SETTING FORTH DOG CONTROL REGULATIONS IN THE TOWN
OF HAMPTON
TOWN OF HAMPTON, COUNTY OF WASHINGTON
STATE OF NEW YORK

Be it enacted by the Town Board of the Town of Hampton (the "Town"), as follows:

SECTION 1. Purpose

The Town of Hampton finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and 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 and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

SECTION 2. Authority

This local law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and Municipal Home Rule Law.

SECTION 3. Title

The title of this local law shall be "Dog Control Local Law of the Town of Hampton."

SECTION 4. Definitions

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

(A) **At Large.** Means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be "at large" if it is: (a) accompanied by and under the immediate supervision and control of the owner or other responsible person; (b) a police work dog in use for police work; or (c) accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

(B) **Dangerous Dog.** Means any dog that conducts itself so as to cause bodily harm and injury or to put any person in reasonable apprehension of such bodily harm and injury, or any dog which attacks, chases or worries any domestic, farm or companion animal, as defined in Section 108 of the Agriculture and Markets Law.

(C) **Dog Control Officer.** Any person authorized by the Town Board of the Town of Hampton from time to time to enforce the provisions of this local law or the provisions of the Agriculture and Markets Law.

(D) **Harbor.** Means to provide food or shelter to any dog.

(E) **Leashed or Restrained by a Leash.** Means a dog that is equipped with a collar of sufficient strength attached to a leash not more than fifteen (15) feet long, which leash shall be held by a person having sufficient ability to control and restrain the dog by means of a collar and leash.

(F) **Owner.** Means any person who harbors or keeps any dog or has the care, custody or control of any dog or any person who licensed the dog. In the event any dog found in violation of this local law shall be owned by a person under eighteen years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the household in which said person resides). The term "owner" shall also include any corporation, association or entity that harbors or keeps or has the care, custody or control of any dog in the Town.

(G) **Police Work Dog.** Means a dog under the care and control of any law enforcement agency and used primarily for law enforcement investigations and related work. The provisions of this local law shall not apply to any police work dog.

(H) **Service Dog.** Means any dog that is trained to aid a person with a disability and is actually used for this purpose, otherwise known as a "guide dog".

SECTION 5. Restrictions

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

(A) be at large;

(B) cause damage or destruction to property, or commit a nuisance by defecating or urinating or scavenging through refuse upon the premises of a person, other than the owner of such dog, unless the owner of said premises has given permission therefore;

(C) chase, jump on or at, or otherwise harass any person in such a manner as would reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury; or

(D) habitually chase, run alongside of motor vehicles or bicycles; or

(E) attack, chase or worry any domestic, farm and or companion animal, as defined section 108 of the Agriculture and Markets Law; or

(F) habitually chase 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; or

(G) be off the premises of the owner unless restrained by a leash to be held by a person of sufficient strength and ability to adequately restrain the dog. Such dog may be unleashed while off the owner's or harborer's premises only on such occasions as when such dog is on the private premises of another with the knowledge, consent and approval of such person.

SECTION 6. Enforcement.

(A) The dog control officer or other law enforcement officer observing a violation of this local law in his presence shall issue and serve an appearance ticket for such violation. The dog control officer shall enforce the provisions of this local law pursuant to Article 7 of the Agriculture and Markets Law.

(B) The dog control officer or other law enforcement officer may also investigate and report to the Town of Hampton Court (the "Court") any dangerous dog, as defined herein or as set forth in section 121 of Agriculture and Markets Law, and see that the order of the Court in such case is carried out.

SECTION 7. Complaint.

(A) Any person who observes a violation of this local law (including, without limitation, the dog control officer) may file a complaint under oath with the Court specifying the objectionable conduct; the date(s) thereof; the damage caused; a description of the dog; and the name and residence, if known, of the owner of such dog.

(B) The Court shall have jurisdiction to hear all complaints filed as herein provided and all actions and proceedings hereunder and of all prosecutions for any violation of this local law.

(C) Upon receipt by the Court of any complaint against the conduct of a particular dog, the Court may summon the alleged owner or other person harboring such dog to appear in person before the Court for a hearing, at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Court decides that a violation of the local law has been committed, the Court may impose a penalty upon the violator as provided in Section 9 of this local law.

(D) A violation of any order issued by the Court under the provisions of this Section 7 shall be an offense punishable, upon conviction thereof, as provided in Section 9 of this local law.

SECTION 8. Procedures Relating to Dangerous Dogs.

Procedures relating to dangerous dogs shall be in accordance with the relevant provisions of the Agriculture and Markets Law.

(A) In the event of a complaint of an attack upon a person or of an attack, chase or worrying of a domestic, farm or companion animal, the Court shall immediately determine if there is probably cause to believe that the dog is a dangerous dog, and upon so finding, shall

order the dog control officer or law enforcement officer to immediately seize the dog pending a judicial hearing conducted in accordance with Agriculture and Markets Law.

(B) If satisfied that said dog is a dangerous dog, the Court may order the dog control officer or law enforcement officer to take any action consistent with the provisions of the agriculture and Markets Law including the destruction of the dog, or take any other action prescribed herein. In the event that any person is bitten or scratched by said dog, the Court shall order the dog tested for rabies or quarantined for a period of ten (10) days. The rabies testing and/or quarantined shall be at the owner's expense.

(C) In the event that the Court does not order the dog destroyed and determines that said dog is a dangerous dog within the meaning of the Agriculture and Markets Law, the owner of the dog shall be required to:

- (1) Maintain liability insurance which insurance must specifically cover damage or injury to persons or property which may be caused by a dangerous dog;
- (2) Muzzle the dog when in all public places; and
- (3) Post the property where the dog is located with a notice of "Dangerous Dog."

(D) Upon default of any of the conditions of a Court order, said dangerous dog shall be dealt with in accordance with the law and without the need for further process of the Court.

SECTION 9. Penalties.

(A) Any person convicted of a violation of this local law shall be liable to a civil penalty not exceeding \$50.00 for a first violation, not exceeding \$100.00 for a second violation and not exceeding \$250.00 for each subsequent violation.

(B) In addition to the penalties imposed for violations of this local law, the person found to have violated this local law must pay for the cost of any seizure or kennel fees that may be required.

(C) A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(D) Upon presentation of proof of payment of any and all fines and/or penalties, the dog control officer or other law enforcement officer shall release any dog impounded to its owner or harbinger, provided that the release of the dog is consistent with any court determination made with respect to the dog.

SECTION 10. Seizure, Impoundment, Redemption and Adoption.

(A) The dog control officer or any law enforcement officer in the employ of or

under contract with the Town shall seize:

(1) Any dog which is not identified and which is not on the owner's premises.

(2) Any dog which is not licensed whether on or off the owner's premises.

(B) The dog control officer or any law enforcement officer in the employ of or under contract to the Town may seize any dog in violation of any local law or local law relating to the control of dogs adopted by the Town pursuant to Article 7 of the Agriculture and Markets Law.

(C) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in Section 118 of the Agriculture and Markets Law.

(D) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in Section 118 of said Article.

(E) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (D) of this section whether or not such owner chooses to redeem his or her dog.

(F) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.

(G) No action shall be maintained against the Town, any dog control officer or other law enforcement officer when acting pursuant to his special duties, or any other agent or officer of the Town or person under contract with said 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 or the Agriculture and Markets Law.

SECTION 11. Records of Dog Control Officer

It shall be the responsibility of the dog control officer to maintain accurate records and to complete and submit the following records to the Town Supervisor and Town Board of the Town of Hampton on a monthly basis:

(A) A listing of all complaints, including the name, address and phone numbers of each complainant and the type of complaint and the resolution of each complaint.

(B) A separate log of each official action taken in each case.

(C) The number of dogs impounded.

(D) The number of dogs redeemed by their owner.

(E) A list of all expenditures incurred by the dog control officer.

(F) The gross receipts collected by the dog control officer

Section 12. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 13. Repealer.

This local law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Hampton and they shall be, upon the effective date of this local law, null and void.

SECTION 14. Effective Date.

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