

HAMPTON TOWNSHIP ORDINANCE 2013-06

AN ORDINANCE TO AMEND CHAPTER 35, ENTITLED “ANIMAL CONTROL, DOMESTIC” OF THE CODE OF THE TOWNSHIP OF HAMPTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY

§ 35-1 Definitions

§ 35-2 License - Required

§ 35-2.1 Penalty

§ 35-3 Fees; forms

§ 35-4 Application

§ 35-5 Exemption from fees

§ 35-6 Delinquent fees

§ 35-7 Vaccination of dogs required; exceptions

§ 35-8 Certificate of vaccination to be presented to Township Clerk

§ 35-9 Certificate of vaccination prerequisite to issuance of dog license

§ 35-10 Free vaccinations may be provided by health officer; adoption of rules and regulations by health officer

§ 35-11 Penalty

§ 35-12 Small animal control officer

§ 35-13 Registration tag

§ 35-14 Kennels, pet shops, shelters and pounds

§ 35-15 Disposition of fees

§ 35-16 List of kennels, pet shops, shelters and pounds to be sent to state

§ 35-17 Dog census

§ 35-18 Injury to persons or other animals

§ 35-19 Dogs creating a nuisance or injury to property

§ 35-20 Restraint of dogs

§ 35-20.1 Penalty

§ 35-20.2 Duty of owner or person in charge of dog

§ 35-21 Restraint on private property, public school property and in public parks

§ 35-21.2 Penalty

§ 35-22 Females in season

§ 35-22.1 Penalty

§ 35-23 Restraint after biting person

§ 35-23.1 Menacing dogs

§ 35-23.2 Findings to declare dog menacing

§ 35-23.3 Restraint of menacing dog; liability insurance

§ 35-23.4 Penalties

§ 35-23.5 Use of a menacing dog to threaten or coerce

§ 35-24 Vicious and potentially dangerous dogs

§ 35-25 Seizure and impoundment of dog by certified animal control officer; grounds

§ 35-26 Notice of Seizure and Impoundment; Determination of Identity of Owner; Notice of Hearing; Return of Statement by Owner; Destruction of Dog; Agreement between Municipality and Dog Owner; Settlement and Disposition; Liability of Municipality; Legal Expenses

§ 35-27 Finding to declare dog vicious; grounds

§ 35-28 Finding to declare dog potentially dangerous

§ 35-28.1 Order and schedule for compliance for potentially dangerous dog; conditions

§ 35-28.2 Procedure for appeal

§ 35-28.3 Right to convene hearing for subsequent actions of dog

§ 35-28.4 Duties of owner of potentially dangerous dog

§ 35-28.5 Violations by owner; penalties; enforcement; seizure and impoundment of dog; destruction by order of court

§ 35-28.6 Potentially dangerous dog registration number, red identification tag and license; issuance; telephone number to report violations; publicity

§ 35-28.7 Threat of bodily injury or death to another domestic animal; settlement agreement; liability; legal expenses

§ 35-28.8 Inspection to determine continuing compliance

§ 35-28.9 Inapplicability to dogs used for law enforcement activities

§ 35-28.10 Severability

§ 35-29 Impounding and redemption

§ 35-30 Right of entry on premises to seize dog

§ 35-31 Interference with performance of official duties

§ 35-32 Notices

§ 35-33 Penalties

§ 35-1 Definitions

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

CERTIFIED ANIMAL CONTROL OFFICER - - A certified animal control officer as defined in section 35-12 of this Ordinance and N.J.S.A. 4:19-15.1 et seq.

DEPARTMENT - - The Department of Health.

DOG -- Any dog, bitch or spayed bitch or dog hybrid.

DOG OF LICENSING AGE -- Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

DOMESTIC ANIMAL -- Any cat, dog or livestock other than poultry.

KENNEL -- Any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop, and shall include any establishment wherein there is carried on the business or practice of boarding, grooming, selling or breeding dogs or where dogs are kept or maintained for any commercial

purpose whatever, except pet shops as herein described, or where four or more dogs of licensing age are kept or maintained for any reason in any one place or establishment.

MENACING DOG - - Any dog or dog hybrids declared menacing by the Certified Animal Control Officer pursuant to Section 35-23.2 of this Ordinance.

OWNER -- When applied to the proprietorship of a dog, means and includes every person having a right of property in such dog and every person who has such dog in his keeping.

PET SHOP -- Any place of business which is not part of a kennel, wherein animals including but not limited to dogs are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes.

POTENTIALLY DANGEROUS DOG -- Any dog or dog hybrids declared potentially dangerous by the municipal Court pursuant to N.J.S.A. 4:19-23.

POUND -- Any establishment for the confinement of dogs or other animals seized under the provisions of this chapter or otherwise.

SHELTER -- Any establishment where dogs or other animals are received, housed and distributed.

VICIOUS DOG -- Any dog or dog hybrids declared vicious by the municipal court pursuant to N.J.S.A. 4:19-22.

§ 35-2 License - Required

Any person residing in the Township who shall own, keep or harbor therein a dog which has attained the age of seven months or which possesses a set of permanent teeth shall annually in the month of January apply for and procure from the Township clerk a license and official metal registration tag for each such dog and shall place upon such dog a collar or harness with the registration tag securely fastened thereto; provided, that in the event such a dog shall be newly-acquired, or in the event that after acquisition a dog shall attain the age of seven months or develop a set of permanent teeth, the initial application for license and registration tag shall be made within ten days after such acquisition, age attainment or development of teeth, as the case may be.

Any person who shall bring or cause to be brought into the Township any dog licensed in another state for the calendar year, and bearing a registration tag, the same to be kept within the Township for a period of more than ninety days shall immediately apply for a

license and registration tag for each such dog unless such dog be licensed under a kennel, pet shop, shelter or pound license issued according to law.

Any person who shall bring or cause to be brought into the Township from another state any unlicensed dog and shall keep the same or permit the same to be kept within the Township for a period of more than ten days shall immediately apply for a license and registration tag for each such dog unless such dog be licensed under a kennel, pet shop, shelter or pound license issued according to law. Failure to obtain a license as provided herein shall result in a delinquent fee being imposed as set forth in § 35-6. The owner shall be required to present sufficient proof to establish that the dog was acquired after February 1 and that application has been submitted within the ten-day requirement.

No person, persons or entity shall own, maintain, keep or harbor or permit to be maintained, kept or harbored in or about property within the Township of Hampton a total of more than four dogs of licensing age without obtaining a kennel license. Provided however if at the time of the enactment of this Ordinance more than four dogs are presently owned, maintained, kept or harbored on any premises within the Township in violation of this Section the number of dogs may exceed the limit of four further provided however if in the event a dog dies or is otherwise disposed of it may not be replaced if the number of dogs remaining exceeds the limit of four. It is the intention of the Township to bring the number of dogs permitted to be owned, maintained, kept or harbored on property within the Township to the lawful limit of four.

§ 35-2.1 Penalty

Any person who shall fail to have their dog licensed and to have their dog wear its metal registration tag shall be subject to the following penalties:

- (a) For the first offense for having an unlicensed dog: fifty dollars; and
- (b) For the second offense for having an unlicensed dog: seventy-five dollars; and
- (c) Failure to wear and display official metal registration tag on dog: fifty dollars.

§ 35-3 Fees; forms

- (a) The persons applying for a dog license and registration tag shall pay a fee of nine dollars and eighty cents (\$9.80) for the license and the sum of one dollar for a one-year registration tag for each dog other than a potentially

dangerous dog; and for each annual renewal, the fee for the license and for the registration tag shall be the same as for the original license and tag; and the licenses, registration tags and renewals thereof shall expire on January 31 in each year. The annual fee for a potentially dangerous dog and each renewal shall be \$700.00. If application shall not be made within the time limited by section 35-2 or by law.

- (b) In addition to the license fee referred to in paragraph (a) above, an additional fee of three dollars shall be paid by a person applying for the license with respect to any dog of reproductive age which has not had its reproductive capacity permanently altered through sterilization. Any person claiming to be exempt from such fee shall provide a copy of a veterinarian's certification of neutering.
- (c) In addition to the license fee referred to in paragraphs (a) and (b) above, a surcharge for a pilot clinic of twenty cents shall be paid by any person applying for a license.
- (d) Fees collected pursuant to paragraphs (b) and (c) above shall be forwarded to the state treasurer in accordance with law.
- (e) Only one license and registration tag shall be required in any licensing year for any dog owner in New Jersey, and such license and tag shall be accepted by all municipalities.

§ 35-4 Application

- (a) The application shall provide: the name, 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 whether it has been surgically debarked or silenced; and the name, street and post office address and telephone number of the owner and the person who shall keep or harbor such dog.
- (b) There shall be provided with the application evidence that the dog to be licensed and registered has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Health, Education and Welfare or has been certified exempt as provided by regulations of the State Department of

Health. No license or metal registration tag shall be issued without proof of inoculation as required hereunder.

- (c) The information on the application and the registration number issued for the dog shall be preserved for a period of three years by the Township Clerk. Registration numbers shall be issued in the order of the application.
- (d) The Township Clerk shall forward to the State Department of Health each month, on forms furnished by the Department, an accurate account of registration numbers issued or otherwise disposed of.

§ 35-5 Exemption from fees

Dogs used as guides for blind persons and commonly known as "Seeing Eye" dogs, dogs used to assist handicapped persons commonly known as "service dogs" or dogs used to assist deaf persons and commonly known as "hearing ear" dogs shall be licensed and registered as other dogs as herein provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefore.

§ 35-6 Delinquent fees

- (a) Any dog owner or person harboring a dog who is found, by the Animal Control Officer, dog canvasser or any other municipal official, to have an unlicensed dog after January 31 of any year shall be required to pay an additional delinquent fee as provided for herein plus the required license and registration tag fees as provided in this chapter, in addition to any fine imposed for failure to obtain a dog license before February 1.
- (b) The Township Clerk shall levy a per-calendar-month additional late fee of \$5 for any license issued after February 10 of the calendar year for which the license is required.

§ 35-7 Vaccination of dogs required; exceptions

No person of Township of Hampton shall own, possess, harbor or have in custody in the Township any dog, over six months of age, unless such dog has been vaccinated against rabies by a duly licensed veterinarian of the state. Such vaccination shall be repeated annually or be a vaccination that remains effective for three years and is to consist of one injection of not less than five c.c.'s of anti-rabies vaccine of standard and accepted formula and manufactured under a license of the United States Bureau of Animal Industry of the Department of Agriculture.

Any dog may be exempted from the requirement of such vaccination, for a specified period of time, upon the representation of a certificate from a duly licensed veterinarian stating that by reason of age, infirmity or other physical condition, the vaccination of such dog, for such specified period of time, is contraindicated. Nothing in this section shall be deemed to require the vaccination of any dogs located in and confined to duly recognized and licensed kennels, dog pounds, pet shop, etc., where dogs are offered for sale, as provided by the laws of the state.

§ 35-8 Certificate of vaccination to be presented to Township Clerk

No license required for the owning, harboring or having custody of a dog in the Township shall obtain from the veterinarian who vaccinates such dog against rabies a certificate, and shall, within ten days of such vaccination, or within ten days after bringing the dog into the Township if the dog was vaccinated before being brought in the Township, present such certificate to the Township clerk's office, for verification. The vaccination certificate must extend through at least ten months of the twelve month licensing period.

§ 35-9 Certificate of vaccination prerequisite to issuance of dog license

No license required for the owning and keeping of dogs, by virtue of any law of the state or any provision of this Ordinance or other ordinance of the Township, shall be issued to any person unless a certificate issued by a duly licensed veterinarian of the state is presented to the Township clerk, showing that such dog has been vaccinated against rabies in the manner provided in this chapter.

§ 35-10 Free vaccinations may be provided by health officer; adoption of rules and regulations by health officer

The health officer is hereby authorized and empowered to provide free vaccination of dogs at a suitable clinic and place designated by him to be conducted by a licensed veterinarian of the state. The health officer is hereby further authorized and empowered to make and adopt such rules and regulations, not inconsistent or in conflict with the terms and provisions of this chapter, as he may deem proper and necessary for the enforcement of this chapter.

§ 35-11 Penalty

Any person who shall violate any of the provisions of this chapter, for which there is no specific penalty provided for hereinabove or hereinbelow, upon conviction, be punished by a fine not to exceed fifty dollars or by imprisonment in the county jail for a period not

to exceed ten days, or by both such fine and imprisonment. Each violation of any provisions of this chapter and each day of the same either under this section or a section of this chapter for which there is a specific penalty shall be deemed and taken to be a separate and distinct offense.

§ 35-12 Small animal control officer

- (a) The certified animal control officer shall be appointed by the Township of Hampton or pursuant to an interlocal services agreement if applicable, but his or her term of office shall in no event extend beyond the 31st day of December next following his or her appointment. He or she shall serve after the expiration of his or her term until his or her successor shall be appointed and has qualified. Any vacancy in the position shall be filled by the Township in like manner. He or she shall receive such compensation for the performance of his or her duties as shall lawfully be determined by the Township committee during budget deliberations annually.
- (b) The certified animal control officer shall have the power and authority within the Township and Hampton Township to:
 - (1) Enforce all laws or ordinances enacted for the protection of animals, including, but not limited to, animal control, animal welfare and animal cruelty laws of the state and Ordinances of the Township;
 - (2) Investigate and sign complaints concerning any violation of an animal control, animal welfare or animal cruelty laws of the state or Ordinance of the Township;
 - (3) Act as an officer for the detection, apprehension and arrest of offenders against the animal control, animal welfare and animal cruelty laws of the state and Ordinances of the Township;
 - (4) Perform such duties relating to his or her position as are or from time to time shall be prescribed by ordinances, by law and by direction of the Township committee.

§ 35-13 Registration tag

- (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.

§ 35-14 Kennels, pet shops, shelters and pounds

- (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 Township Clerk for a license entitling him to keep or operate such establishment.
- (b) The application shall describe the premises where the establishment is located or is proposed to be located and the purpose or purposes for which it is to be maintained and shall be accompanied by the written approval of the local Board of Health and the Planning and/or the Zoning Board whichever is applicable, showing compliance with the local and state rules and regulations governing location of and sanitation at such establishments.
- (c) All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained. Such license shall expire on the last day of January of each year and shall be subject to revocation by the township on recommendation of the State Department of Health or the local Board of Health for failure to comply with the rules and regulations of the State Department of Health or the local Board of Health governing the same, after the owner has been afforded a hearing by either the State Department of Health or the local Board of Health in accordance with the statutes providing for such hearings.
- (d) Any such person holding such license shall not be required to secure individual licenses for dogs owned by him and kept at such establishments. Such license shall not be transferable to another owner or different premises.
- (e) One female dog in breeding purposes may be kept by not more than one person for each family household without obtaining a kennel license for not more than one litter per year, and further provided that the pups from such breeding shall be sold or disposed of after seven months of age, unless kept as licensed dogs, and that the female dog kept for breeding purposes must

be registered as a breed bitch each year when the license for the dog is obtained.

- (f) The annual license fee for a kennel providing accommodations for 10 dogs or fewer shall be \$10, and for more than 10 dogs, \$25. The annual license fee for a pet shop shall be \$10. No fee shall be charged for a shelter or pound.
- (g) No dog kept in a kennel, pet shop, shelter or pound shall be permitted off such premises except on least or in a crate or other safe control.

§ 35-15 Disposition of fees

A license fee and other moneys collected or received under this chapter after payment to the state of its statutory fees shall be forwarded to the Chief Financial Officer of the township within 30 days after collection or receipt and shall be placed in a special account separate from any of the other accounts of the township and such funds shall be used, expended or transferred only in accordance with statutes of the State of New Jersey governing and regulating the use, expenditure or transfer of such funds.

§ 35-16 List of kennels, pet shops, shelters and pounds to be sent to state

The Township Clerk 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 therefore are issued, which list shall include the name and address of the licensee and the kind of license issued.

§ 35-17 Dog census

The Animal Control Officer or any person appointed for the purpose by the Township Committee shall annually or bi-annually cause a canvas to be made of all dogs owned, kept or harbored within the limits of the township and shall report on or before September 1 of each year, to the local 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 unlicensed dogs, the number of unlicensed dogs owned, kept or harbored by each of said persons, together with a complete description of each of said unlicensed dogs.

§ 35-18 Injury to persons or other animals

No person who owns, keeps or harbors any dog shall suffer or permit such dog to bite any person or animal. Any person violating this section shall be subject to a fine for the first offense of two hundred fifty dollars and for the second and subsequent offenses five hundred dollars

§ 35-19 Dogs creating a nuisance or injury to property

No person who owns, keeps or harbors any dog shall allow such dog to bark, howl or cry habitually in such manner as to constitute a nuisance. Nor shall any person who owns, keeps or harbors any dog allow it to chase any vehicle upon a public street or to injure or damage any lawn or shrubbery or flowers or grounds or any property of any person other than its master's, to behave in any way so as to threaten, menace or endanger property or violate the owner's responsibility under section 35-20.2 of this Ordinance requiring the owner or person in charge of the dog to clean up the dog's feces. Any person who shall violate this section shall be subject to for a first offense a seventy-five dollar fine and for the second and subsequent offenses a one hundred dollar fine.

§ 35-20 Restraint of dogs

No person who owns, keeps or harbors any dog shall suffer or permit such dog to be out-of-doors unless accompanied by and under the control of a responsible person and the dog is on a leash not longer than eight feet in length or unless confined within its owner's property, except when a dog is within an official Township Dog Park, than the Dog Park rules and regulations shall apply.

§ 35-20.1 Penalty

Any person who shall violate any provisions of section 35-21 concerning having a dog on a leash shall be punished by the following fines:

- (a) For the first offense: seventy-five dollars; and
- (b) For the second and subsequent offenses: one hundred dollars.

§ 35-20.2 Duty of owner or person in charge of dog

No person owning, harboring, keeping or in charge of any dog shall cause, suffer or allow such dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private

property without the permission of the owner of said property, except under the following conditions:

- (a) The person who owns, harbors, keeps or is in charge of such dog shall immediately remove all feces deposited by such dog by any sanitary method.
- (b) The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping or in charge of any dog in a sanitary manner.

§ 35-21 Restraint on private property, public school property and in public parks

No person who owns, keeps or harbors any dog shall suffer or permit such dog to be in or upon:

- (a) Any private property without the consent of the owner of such property.
- (b) Any public school property.
- (c) Any public park or recreation area unless accompanied by and under the control of a responsible person in accordance with regulations promulgated by the public authority having jurisdiction thereof.

§ 35-21.2 Penalty

Any person who shall violate any of the provisions of section 35-21 shall be subject to the following penalties:

- (a) For a first offense: fifty dollars; and
- (b) For a second and subsequent offenses: one hundred dollars.

§ 35-22 Females in season

No person who owns, keeps or harbors any female dog shall suffer or permit such dog, while in season, to be out-of-doors unleashed; nor shall any such person suffer or permit such dog while in season to be within the Township except in a duly licensed kennel or animal hospital after being given written notice by the certified animal control officer ordering the removal of such dog or its confinement in such kennel or animal hospital. Such notice may be given whenever the certified animal control officer shall determine that such dog constitutes a nuisance.

§ 35-22.1 Penalty

Any person who shall violate section 35-22 hereinabove shall be subject to the following fines:

- (a) For failure to properly restrain a female dog in season on a leash as provided for in section 35-22: for the first offense: fifty dollars; and
- (b) For the second or subsequent offense: one hundred dollars.

§ 35-23 Restraint after biting person

No person who owns, keeps or harbors any dog which shall have bitten any person shall, after being given written notice by the chief of police or by the certified animal control officer ordering the confinement of such dog, suffer or permit such dog to be out-of-doors unless confined on a leash and accompanied by a responsible person or unless confined within a secure enclosure on its master's property. Any such dog believed to be vicious or potentially dangerous, shall be subject to the provisions of section 35-24, sections 35-25 through 35-29.9, section 35-29.4 and section 35-29.5 of this Ordinance

§ 35-23.1 Menacing dogs

The keeping, control and disposition of a menacing dog within the limits of the Township shall be in accordance with the provisions of sections 35-23.2 through 35-23.5, herein below.

§ 35-23.2 Findings to declare dog menacing

Notwithstanding any provision in N.J.S.A. 4:19-17 et seq. to the contrary, the certified animal control officer on behalf of the Township is authorized to declare a dog menacing whenever the certified animal control officer has reasonable cause to believe that the dog poses a threat of bodily injury or death to a human being.

In making the determination that a dog is or is not menacing, the following evidence shall be considered:

- (a) Whether the dog approached any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, without provocation.
- (b) Whether the dog has a known propensity, tendency, or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

- (c) Whether the dog exhibits any characteristics of aggressive or unpredictable temperamental behavior in the presence of human beings or dogs or other animals.
- (d) The manner in which the dog had been maintained by its owner or custodian.
- (e) Whether the dog snaps, bites, or manifests a disposition to snap or bite.
- (f) The size of the dog and the nature and extent of possible injuries inflicted.
- (g) The presence or absence of any provocation.

§ 35-23.3 Restraint of menacing dog; liability insurance

Any person who owns, keeps, or harbors a menacing dog shall be required to comply with one or more of the following conditions, as determined by the certified animal control officer:

- (a) Immediately erect and maintain an enclosure and/or other means of restraint for the menacing dog, on the property where the menacing dog will be kept and maintained, that is designed to prevent the menacing dog from escaping by climbing, jumping, or digging, prevent the entry of the general public, and preclude any release or escape of a menacing dog by an unknowing person, and that is approved by the Animal Control Officer. Said officer may also require that the menacing dog be muzzled while outside within the enclosure.
- (b) Control the menacing dog when outside of the enclosure. No person shall take the menacing dog out of the enclosure unless it is securely muzzled and restrained with a tether approved by the certified animal control officer having a minimum tensile strength sufficiently in excess of that required to restrict the menacing dog's movements to a radius of no more than three feet from the person and under the direct supervision of a responsible person of at least eighteen years of age.
- (c) Maintain liability insurance in a minimum amount of one hundred thousand dollars to cover any damage or injury caused by the menacing dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring that the Township be named as an additional insured for the sole purpose of being notified by the insurance

company of any cancellation, termination, or expiration of the liability insurance policy.

§ 35-23.4 Penalties

Any person who shall violate any provision of sections 35-23.1 through 35-23.3 may be held subject to any or all of the following:

- (a) A fine of up to five hundred dollars.
- (b) Compliance with substantial community service.
- (c) Compliance with an educational program on the proper treatment of animals.
- (d) The costs necessary to house, feed, restrain, and place the dog in a caring environment.

Each violation of any provision of sections 35-23.1 through 35-23.3 and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

§ 35-23.5 Use of a menacing dog to threaten or coerce

Any person who uses a menacing dog to threaten or coerce action from another individual shall be subject to prosecution.

§ 35-24 Vicious and potentially dangerous dogs

The keeping, control and disposition of vicious and potentially dangerous dogs within the limits of the Township shall be in accordance with the provisions of sections 35-25 through 35-28.9 herein below, N.J.S.A. 4:19-17 et seq., and any amendments thereto.

§ 35-25 Seizure and impoundment of dog by certified animal control officer; grounds

Any officer or agent authorized or empowered to perform any duty under this chapter 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.

- (a) In addition to the ability of the certified animal control officer to impound a dog pursuant to section 35-25 of this Ordinance, the certified animal control

officer shall seize and impound a dog when the officer has reasonable cause to believe that the dog:

- (1) Attacked a person and caused death or serious bodily injury as defined in N.J.S.A. 2C:11-1(b) to that person;
 - (2) Caused bodily injury as defined in N.J.S.A. 2C:11-1(a) to a person during an unprovoked attack and poses a serious threat of harm to persons or domestic animals;
 - (3) Engaged in dog fighting activities as described in N.J.S.A. 4:22-24 and N.J.S.A. 4:22-26; or
 - (4) Has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.
- (b) The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal health officer, the dog may be impounded in a facility or other structure agreeable to the owner.

§ 35-26 Notice of Seizure and Impoundment; Determination of Identity of Owner; Notice of Hearing; Return of Statement by Owner; Destruction of Dog; Agreement between Municipality and Dog Owner; Settlement and Disposition; Liability of Municipality; Legal Expenses

Notice of seizure and impoundment; determination of identity of owners; notice of hearing; return of statement by owner; destruction of dog; agreement between municipality and dog owner; settlement and disposition; liability of municipality; legal expenses.

- (a) The certified animal control officer shall notify the municipal court and the municipal health officer immediately that he has seized and impounded a dog pursuant to section 35-25 and N.J.S.A. 4:19-19, or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. The certified animal control officer shall, through a reasonable effort, attempt to determine the identity of the owner of any dog seized and impounded pursuant to section 35-25 and N.J.S.A. 4:19-19. If its owner cannot be identified within seven days, that dog may be humanely destroyed.

- (b) The certified animal control officer shall, within three working days of the determination of the identity of the owner of a dog seized and impounded pursuant to section 35-25 and N.J.S.A. 4:19-19, notify the owner by certified mail, return receipt requested, concerning the seizure and impoundment, and that, if the owner wishes, a hearing will be held to determine whether the impounded dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed.
- (c) In the alternative and notwithstanding any provision in N.J.S.A. 4:19-17 et seq. to the contrary, the Township through the certified animal control officer and the owner of the dog may settle and dispose of the matter at any time in such manner and according to such terms and conditions as may be mutually agreed upon. Notwithstanding any provision of N.J.S.A. 4:19-17 et seq. to the contrary, neither the Township nor any of its employees shall have any liability by virtue of having entered into any settlement agreement pursuant to this subsection, or for any action or inaction related to the entry into such agreement, for any injuries or damages caused thereafter by the dog. The Township may, as a condition of the settlement agreement, also require that the owner of the dog hold the Township harmless for any legal expenses or fees the Township may incur in defending against any cause of action brought against the Township notwithstanding the prohibition against such causes of action set forth in this subsection.

§ 35-27 Finding to declare dog vicious; grounds

- (a) The municipal court shall declare the dog vicious if it finds by clear and convincing evidence that the dog:
 - (1) Killed a person or caused serious bodily injury as defined in N.J.S.A. 2C:11-1(b) to a person; or

- (2) Has engaged in dog fighting activities as described in N.J.S.A. 4:22-24 and N.J.S.A. 4: 22-26.
- (b) A dog shall not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S.A. 2C:11-1(b) upon a person if the dog was provoked. The Township shall bear the burden of proof to demonstrate that the dog was not provoked.
- (c) If the municipal court declares a dog to be vicious, and no appeal is made of this ruling pursuant to section 35-28.2 and N.J.S.A. 4:19-25, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

§ 35-28 Finding to declare dog potentially dangerous

- (a) The municipal court shall declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog:
 - (1) Caused bodily injury as defined in N.J.S.A. 2C:11-1(a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person; or
 - (2) Severely injured or killed another domestic animal, and
 - a. Poses a threat of serious bodily injury or death to a person; or
 - b. Poses a threat of death to another domestic animal; or
 - (3) Has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.
- (b) A dog shall not be declared potentially dangerous for:
 - (1) Causing bodily injury as defined in N.J.S.A. 2C:11-1(a) to a person if the dog was provoked; or
 - (2) Severely injuring or killing a domestic animal if the domestic animal was the aggressor. For the purposes of subsection (b)(1) of this section, the Township shall bear the burden of proof to demonstrate that the dog was not provoked.

§ 35-28.1 Order and schedule for compliance for potentially dangerous dog; conditions

If the municipal court declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance which, in part:

- (a) Shall require the owner to comply with the following conditions:
 - (1) To apply, at his own expense, to the municipal clerk for a special municipal potentially dangerous dog license, municipal registration number and red identification tag issued pursuant to section 35-9.12. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number and red identification tag.
 - (2) To display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from fifty feet of the enclosure required pursuant to subsection (a)(3) of this section.
 - (3) To immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the certified animal control officer having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner.

- (b) May require the owner to maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the Township in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

§ 35-28.2 Procedure for appeal

The owner of the dog or the certified animal control officer may appeal any final decision, order or judgment, including any conditions attached thereto, of a municipal court pursuant to section 35-27 and/or 35-28 and N.J.S.A. 4:19-17 et seq. by filing an appeal with the Superior Court, Law Division, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to appeals from courts of limited jurisdiction. The Superior Court shall hear the appeal by conducting a hearing de novo in the manner established by those rules for appeals from courts of limited jurisdiction.

§ 35-28.3 Liability of owner for costs of impoundment and destruction

- (a) If a dog is declared vicious or potentially dangerous and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the Township for the costs and expenses of impounding and destroying the dog pursuant to section 35-25 and section 35-28.4. The owner shall incur the expense of impounding the dog in a facility other than the municipal depository, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.
- (b) If the dog has bitten or exposed a person within ten days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

§ 35-28.3 Right to convene hearing for subsequent actions of dog

If the municipal court finds that the dog is not vicious or potentially dangerous, the municipal court shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog.

§ 35-28.4 Duties of owner of potentially dangerous dog

The owner of a potentially dangerous dog shall:

- (a) Comply with the provisions of N.J.S.A. 4:19-17 et seq. in accordance with a schedule established by the municipal court, but in no case more than sixty days subsequent to the date of determination;
- (b) Notify the licensing authority, State Police and the certified animal control officer if a potentially dangerous dog is at large or has attacked a human being or killed a domestic animal;
- (c) Notify the licensing authority, State Police and the certified animal control officer within twenty-four hours of the death, sale or donation of a potentially dangerous dog;
- (d) Prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;
- (e) Upon the sale or donation of the dog to a person residing in a different Township, notify the department and the licensing authority, police department or force and certified animal control officer of that municipality of the transfer of ownership and the name, address and telephone number of the new owner;
- (f) In lieu of any license fee required pursuant to section 35-2 and N.J.S.A. 4:19-15.3, pay a potentially dangerous dog license fee to the Township as provided by section 35-2 and N.J.S.A. 4:19-31.

§ 35-28.5 Violations by owner; penalties; enforcement; seizure and impoundment of dog; destruction by order of court

The owner of a potentially dangerous dog who is found by clear and convincing evidence to have violated this Ordinance or to have failed to comply with a court's order shall be subject to a fine of not more than one thousand (\$1,000.00) dollars per day of the violation and each day's continuance of the violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction to enforce this section. The certified animal control officer is authorized to seize and impound any potentially dangerous dog whose owner fails to comply with the provisions of this Ordinance or N.J.S.A. 4:19-17 et seq., or a court's order. The municipal court may order that the dog so seized and impounded be destroyed in an expeditious and humane manner.

§ 35-28.6 Potentially dangerous dog registration number, red identification tag and license; issuance; telephone number to report violations; publicity

The Township shall:

- (a) Issue a potentially dangerous dog registration number and red identification tag along with a municipal potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the certified animal control officer that he has complied with the municipal court's orders. The last three digits of each potentially dangerous dog registration number issued by the Township will be the three-number Ordinance assigned to the Township in the regulations promulgated pursuant to N.J.S.A. 4:19-33. The certified animal control officer shall verify compliance to the Township clerk in writing.
- (b) Publicize a telephone number for reporting violations of this Ordinance. This telephone number shall be forwarded to the department and any changes in this number shall be reported immediately to the department.

§ 35-28.7 Threat of bodily injury or death to another domestic animal; settlement agreement; liability; legal expenses

- (a) Notwithstanding any provision in N.J.S.A. 4:19-17 et seq. to the contrary, whenever the certified animal control officer has reasonable cause to believe that the dog poses a threat of bodily injury or death to another domestic animal, whether or not such dog is declared vicious or potentially dangerous pursuant to section 35-27 and section 35-28.6 hereinabove, the certified animal control officer on behalf of the Township is authorized to negotiate and enter into an agreement with the owner of the dog requiring the owner's compliance with one or more of the following conditions or any other conditions as may be mutually agreed upon:
 - (1) To apply, at the owner's expense, to the Township clerk for a special municipal potentially dangerous dog license, municipal registration number and red identification tag issued pursuant to section 35-9.12. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. The dog may be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number and red identification tag;

- (2) To display, in a conspicuous manner, a sign on the premises warning that a potentially dangerous dog is on the premises. The sign should be visible and legible from fifty feet of the enclosure required pursuant to subsection (a)(3) of this section;
 - (3) To immediately erect and maintain an enclosure for the dog on the property where the dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of the dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of the dog by an unknowing child or other person. The dog shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the certified animal control officer having a minimum tensile strength sufficiently in excess of that required to restrict the dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner.
- (b) Notwithstanding any provision of N.J.S.A. 4:19-17 et seq. to the contrary, neither the Township nor any of its employees shall have any liability by virtue of having entered into any settlement agreement pursuant to this subsection, for any action or inaction related to the entry into such agreement, for any injuries or damages caused thereafter by the dog. The Township may, as a condition of the settlement agreement, also require that the owner of the dog hold the Township harmless for any legal expenses or fees the Township may incur in defending against any cause of action brought against the Township notwithstanding the prohibition against such causes of action set forth in this subsection.

§ 35-28.8 Inspection to determine continuing compliance

The certified animal control officer shall inspect the enclosure and the owner's property periodically to determine continuing compliance with section 35-26, section 35-28.1, and section 35-28.7 of this Ordinance.

§ 35-28.9 Inapplicability to dogs used for law enforcement activities

The provisions of sections 35-9.1 through 35-9.17 shall not apply to dogs used for law enforcement activities.

§ 35-28.10 Severability

The provisions of this Ordinance hereinabove are severable. If any such provision is held by a court of competent jurisdiction to be in violation of federal or state constitutional or statutory law, said provision is hereby repealed and the decision of the court shall not affect or impair any of the remaining provisions contained herein.

§ 35-29 Impounding and redemption

The certified animal control officer or any person authorized by him in that behalf is empowered and authorized to take into custody any dog observed by him which is:

- (a) Without a current registration tag on its collar or harness as required by law.
- (b) In such circumstances as would constitute a violation of any provision of this Ordinance by the person or persons who own, keep or harbor such dog.

Any dog so taken into custody shall be forthwith delivered to a licensed veterinarian having facilities for its detention or to a licensed kennel. Any dog believed to be vicious or potentially dangerous shall be subject to the procedures set forth in section 35-9.1 through 35-9.17 of this Ordinance.

If any dog so taken into custody wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag, or if the owner or the person keeping or harboring such dog is known, the chief of police or certified animal control officer, or any person authorized by either of them in that behalf, shall forthwith notify the person whose address is given on the collar or harness or, if known, the owner or the person keeping or harboring such dog, that the dog has been taken into custody and will be liable to be offered for adoption or destroyed if not claimed within one week after the giving of such notice. Such notice is to be given in writing.

Such person shall be entitled to redeem such dog within one week after the giving of such notice, and if notice is not required to be given hereunder, any person claiming such dog shall be entitled to redeem the dog within one week after its being taken into custody, upon establishing his title thereto to the satisfaction of the certified animal control officer and if the dog was unlicensed or untagged at the time of its seizure, upon producing a

license and registration tag for the dog, and upon paying to the Township clerk a redemption fee of twenty dollars and all expenses incurred by reason of the dog's detention, including boarding costs not exceeding ten dollars per day or the then current charges charged to Township by the Township Official Pound, whichever is greater. In addition, such person redeeming the dog shall pay to the Township clerk a fee which shall include all expenses incurred while the dog was being boarded while impounded.

If any dog so taken into custody shall not be redeemed as aforesaid, it shall thereupon be disposed of or destroyed in a humane manner, as the licensed veterinarian or kennel shall see fit, or offered for adoption seven days after seizure. At the time of adoption, the right of ownership in the dog shall transfer to the new owner.

§ 35-30 Right of entry on premises to seize dog

Any officer or agent authorized or empowered to seize a dog hereunder is hereby authorized and empowered to go upon any premises to take into custody any dog which he may lawfully seize when he is in immediate pursuit of such dog, except upon the premises of the owner of the dog if the owner is present and forbids the same.

§ 35-31 Interference with performance of official duties

No person shall hinder, molest or interfere with anyone in the performance of any of his powers or duties under this chapter. The minimum penalty for the violation of this section shall be \$100.00 up to \$1,000.00.

§ 35-32 Notices

Any notice required or permitted to be given under this chapter may be made and given upon information and belief. Any such written notice shall be handed to the person to whom directed or it shall be left at or mailed to the usual or last known place of abode of such person or, when applicable, the address given on a dog's collar or harness, except that if such notice is given pursuant to sections 35-26 through 35-29.8, such notice shall be delivered in accordance with the provisions set forth in section 35-27.

§ 35-33 Penalties

Any person who shall violate any provision of sections 35-7 through 35-10 is subject to penalties as set forth in section 35-11. Any person who shall violate any provision of sections 35-23.1 through 35-23.3 is subject to penalties as set forth in section 35-23.4. Any person who shall violate any provision of sections 35-9.2 through 35-15 shall be liable to a fine of not more than one thousand dollars per day and each day's continuance

of the violation shall constitute a separate and distinct violation. Any person who shall violate any other provision of this chapter shall be liable to a fine of not more than fifty dollars for each offense, and each day in which such violation continues shall be deemed to constitute a separate offense.

CERTIFICATION

I hereby certify that the above Ordinance was adopted by the Township Committee at their regular meeting held September 24, 2013 at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: _____

Kathleen Armstrong, RMC
Township Clerk

HAMPTON TOWNSHIP NOTICE ORDINANCE 2013-06

TAKE NOTICE that the foregoing Ordinance #2013-06 was introduced and passed on First Reading at the regular meeting of the Hampton Township Committee held on August 27, 2013, and was ordered published according to law, and will be further considered at the regular meeting of the Hampton Township Committee to be held on September 24, 2013. All interested parties may appear and be heard. A copy of this Ordinance has been posted on the Bulletin Board upon which public notices are customarily posted in the Township Hall of the Township.

Kathleen Armstrong, RMC
Township Clerk

HAMPTON TOWNSHIP

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance #2013-06 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex, State of New Jersey held on Tuesday, September 24, 2013 at the Hampton Township Municipal Building, Baleville, N.J.

Kathleen Armstrong, RMC
Township Clerk

