

Chapter 4

ANIMALS*

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ARTICLE I. IN GENERAL

Secs. 4-1—4-20. Reserved.

ARTICLE II. MAINTENANCE

Sec. 4-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animals means all types of creatures including, but not limited to, horses, cats, dogs, rabbits, mules, donkeys, monkeys, goats, fowl of all types, swine, cattle, rodents, reptiles, snakes and insects.

Determination and initial determination means a written statement prepared by the ordinance administrator, setting forth in detail his findings, based upon an investigation as provided for herein, and setting forth his order for appropriate remedial steps. A "determination" becomes an "initial determination" if it is amended or superseded by a "supplemental determination."

Nuisance means any condition which would reasonably be expected to be offensive or objectionable to people on or using nearby properties or on the public right-of-way; and any condition generally within the common law definition of a "nuisance," public or private. Without limiting the foregoing in any way, the term "nuisance" shall be deemed to include any condition resulting in any one (1) or more of the following:

- (1) The breeding of flies, mosquitoes, rodents, or any other animals or insects which bite and/or are commonly carriers of disease.
- (2) The presence of obnoxious odors or substances on adjacent premises or the public right-of-way.
- (3) The entry of animals upon neighboring properties without the permission of the owner or occupant or upon the public right-of-way.

Restrictive covenant means any restriction affecting the keeping of animals which has been

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duly recorded in a deed or with deeds in the county clerk's office, so long as it remains in effect by its terms.

Service means delivery of a determination or supplemental determination personally to the person to whom it is directed or to a person of suitable age at the property where the animals are kept or at any other property affected by the determination or the posting of a determination or supplemental determination at such property; or the mailing of a determination or supplemental determination to the last known address of any person affected thereby, or to any property affected thereby, by mailing it registered, return receipt requested.

Supplemental determination means a determination rendered as provided for in this article amending or superseding an initial determination. (Code 1966, § 4-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 4-22. Exemptions.

This article shall not apply to those licensed veterinarians or to hospitals run or supervised by licensed veterinarians. (Code 1966, §§ 4-6, 4-7; L.L. No. 3 of 1992, §§ 1, 2)

Sec. 4-23. Restrictive covenants.

The existence or absence or termination or expiration of a restrictive covenant shall in no way limit or affect enforcement of this article. (Code 1966, § 4-4)

Sec. 4-24. Investigations, determinations and notices.

(a) The ordinance administrator may investigate the maintenance of any animal on any premises other than those expressly excepted by this article. Whenever, after an inspection, he shall determine that the maintenance or manner of maintenance of any animal or animals on any premises is contrary to law, or is inhumane to any animals, or is or will injure the appropriate use of neighboring property or constitutes or is becoming a nuisance, he shall prepare a written determination setting forth his findings in detail

and ordering the person or persons owning or having custody or control over such animal or animals and/or the property where they are kept, to take appropriate action as specified in the determination.

(b) The determination shall be served in one (1) of the ways set forth in the determination of service. A copy thereof shall be filed with the town clerk and the supervisor, but the failure to so file shall not affect the legality of the service.

(c) At any time the town board or the supervisor or the ordinance administrator may modify the determination by supplemental determination which shall be served and filed in the same manner as the initial determination.

(d) At any time following the service of a determination or a supplemental determination, the town attorney may institute in the name of the town any appropriate civil proceeding or action including, but not limited to, an action for an injunction, together with a temporary restraining order, to enforce the determination or supplemental determination.

(e) The police may carry out any of the functions of the ordinance administrator when necessary or desirable.
(Code 1966, § 4-2)

Sec. 4-25. Determination or supplemental determination orders.

Any determination or supplemental determination under this article may order:

- (1) The cleaning up of animal wastes, animal food, other materials utilized in connection with the animals or coming into contact with animals, and any enclosure or other areas in which animals are maintained; and the condition ordered cleaned up shall not be permitted to recur.
- (2) The enclosure of specified animals in a manner adequate to prevent their entry upon neighboring property.
- (3) The placing of any enclosure at such place or places as specified by the determination.

(4) The placing of refuse in tightly covered containers and its periodic removal.

(5) Ordering all animals removed from any premises if entry for inspection purposes is denied or if the ordinance administrator or police are unduly hampered by the owners or occupants of the premises in carrying out this article.

(6) Such other action as is appropriate to abate any nuisance.

(Code 1966, § 4-3)

Sec. 4-26. Clipping and grooming animals.

Persons clipping and/or grooming animals for compensation shall keep all such animals enclosed while in their custody.

(Code 1966, § 4-5)

Secs. 4-27—4-40. Reserved.

ARTICLE III. DOGS*

Sec. 4-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Confined means that an animal is securely confined or restrained or kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire, leash or other effective tether of such length and so arranged that the animal is controlled and restrained, or, if the animal is being transported by the owner, that it is securely confined in a crate or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

*State law references—Licensing, identification and control of dogs, Agriculture and Markets Law, § 106 et seq.; local dog regulations authorized, Agriculture and Markets Law, § 124.

Dog means any male or female, licensed or unlicensed, member of the species *canis familiaris*.

Dog control officer means any individual appointed by the town to assist in the enforcement of this article, including but not limited to the town dog warden, any policeman, any other peace officer and any other designated representative of the town or of the state department of agriculture and markets.

Harbor means to provide food or shelter to any dog.

Owner means the party purchasing the license unless the dog is or has been lost and such loss reported to the dog warden and a reasonable search has been made. If an animal is not licensed, the term "owner" shall designate and cover any person who at any time owns or has custody and control of, harbors or is otherwise responsible for any animal which is kept, brought or comes within the town. If the "owner" of any dog found to be in violation of this article is a person under eighteen (18) years of age, the parent or guardian of such person shall be deemed to have custody and control of the dog and shall be responsible for any acts of the dog and violations of this article.

Recreational areas means any real property owned by the town which is used for recreational purposes by the public, including but not limited to parks and playgrounds.

Run at large means to be in a public place or private lands without the knowledge, consent and approval of the owner of such lands.
(Code 1966, § 8-4)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law reference—Similar provisions, Agriculture and Markets Law, § 108.

Sec. 4-42. Finding of nuisance; purpose.

The town board finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons, damage to property and have created nuisances within the town. The purpose of this article 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.

(Code 1966, § 8-1)

Sec. 4-43. Penalties for offenses.

Upon conviction, a violation of this article shall be deemed an offense and punishable pursuant to the Penal Law by a fine of not more than twenty-five dollars (\$25.00), except that where a person was found to have violated this article or article 7 [§ 106 et seq.] of the Agriculture and Markets Law within the preceding five (5) years, the penalty may be not more than fifty dollars (\$50.00), and where a person was found to have committed two (2) or more such violations within the preceding five (5) years, the penalty may be not more than one hundred dollars (\$100.00). Fines may be paid pursuant to a plea of guilty by mail and shall be twenty-five dollars (\$25.00), except that where a person was found to have violated this article or article 7 [§ 106 et seq.] of the Agriculture and Markets Law within the preceding five (5) years, the fine shall be fifty dollars (\$50.00), and where a person was found to have committed two (2) or more such violations within the preceding five (5) years, the fine shall be one hundred dollars (\$100.00). Security of twenty-five dollars (\$25.00) shall be posted upon a plea of not guilty made by mail.

(Code 1966, § 8-9)

Sec. 4-44. Enforcement.

This article shall be enforced by a dog control officer.

(Code 1966, § 8-6)

Sec. 4-45. Complaints; appearance tickets.

(a) The dog control officer, having reasonable cause to believe that a violation of this article has been committed in his presence, shall issue and serve an appearance ticket for such violation. The appearance ticket shall be in a form prescribed by the town board by resolution in accordance with the provisions of section 124 of the Agriculture and Markets Law and this article.

(b) An answer to such appearance ticket shall be made within five (5) days of the violation, in

person or by registered or certified mail, return receipt requested, in lieu of a personal appearance on a return date at the time and court specified in the appearance ticket, in accordance with the provisions of section 124 of the Agriculture and Markets Law and this article.

(c) Any person who observes a dog in violation of this article may file a complaint under oath with a town justice specifying the nature of the violation, the date thereof, the description of the dog and the name and residence, if known, of the owner of the dog.

(d) Upon receipt by the town justice of any such complaint, he shall either issue an appearance ticket as set forth in subsection (b) above or summon or order the alleged owner to appear in person before him for a trial, at which time the complainant, the owner, the dog control officer and any other interested person shall have an opportunity to be represented by counsel and to present evidence. If, after such trial, the town justice decides that such action is warranted, in addition to the penalties prescribed in section 4-43, he may order:

- (1) The owner to restrain such dog by collar and leash at all times whether on or off the owner's property.
- (2) The owner to confine such dog to the premises of the owner or to a building on such premises.
- (3) Any remedy authorized by state statutes.
- (4) Any action which could be ordered under section 4-25.
- (5) Such other remedy as may be warranted by the circumstances in such case to assure compliance with this chapter.

(Code 1966, § 8-8)

Sec. 4-46. Seizure; redemption.

(a) Any dog found running at large in violation of this article or section 118 of the Agriculture and Markets Law may be seized by any dog control officer exercising such degree of force as shall be necessary to effect such seizure without intentionally injuring or harming such dog; and such dog shall be impounded or disposed of in accord-

ance with the provisions of article 7 [§ 106 et seq.] or other applicable provisions of the Agriculture and Markets Law.

(b) After such seizure, the record owner of such dog or an adult member of his family, if the owner is ascertainable from the dog's license tag, shall be notified pursuant to the provisions of section 118 of the Agriculture and Markets Law.

(c) A dog owner may redeem his dog from the pound upon payment for the impounding of such dog, plus the cost of keeping, feeding and caring for the dog while in the custody of the dog control officer.

(d) No action shall be maintained against the town, 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 article.

(Code 1966, § 8-7)

Sec. 4-47. Nature of evidence.

Establishment of fact or facts that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by section 4-50 or sections 4-52 through 4-57 shall be presumptive evidence against the owner or harbinger of the dog that he has failed to properly confine, leash or control his dog.

(Code 1966, § 8-5(B))

Sec. 4-48. False or misleading information.

It shall be unlawful for any person to furnish any false or misleading information on any form required to be filed with any municipality or the commissioner pursuant to the provisions of article 7 [§ 106 et seq.] of the Agriculture and Markets Law or rules and regulations promulgated pursuant thereto.

(Code 1966, § 8-5(C)(7))

Sec. 4-49. Failure to license or identify.

It shall be unlawful for any owner of any dog in the town to:

- (1) Fail to license any dog.

- (2) Fail to have any dog identified as required by article 7 [§ 106 et seq.] of the Agriculture and Markets Law.
 - (3) Knowingly affix to any dog any false or improper identification tag or purebred license tag.
- (Code 1966, § 8-5(C)(1)—(3))

Sec. 4-50. Running at large.

It shall be unlawful for any owner of any dog in the town to permit or allow the dog to run at large, 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 and who does so control it. For the purpose of this section, a dog hunting in the company of a hunter shall be considered accompanied by its owner.

(Code 1966, § 8-5(A)(1))

Sec. 4-51. Confinement.

It shall be unlawful for any owner:

- (1) Of any dangerous dog to fail to confine or destroy such dog upon order of any judge or justice as provided in section 121 of the Agriculture and Markets Law.
- (2) To fail to securely confine any dog as required by an order issued pursuant to section 122 or 123 of the Agriculture and Markets Law.
- (3) Of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to article 7 [§ 106 et seq.] of the Agriculture and Markets Law.

(Code 1966, § 8-5(C)(4)—(6))

Sec. 4-52. Howling or barking dogs.

(a) No person shall keep or harbor a dog which howls or barks in violation of this section. It shall constitute a violation of this section if the howling or barking occurs continually and is audible beyond the property line of the premises on which the dog is located:

- (1) For more than five (5) minutes between the hours of 10:00 p.m. and 8:00 a.m.; or,

- (2) For more than fifteen (15) minutes between the hours of 8:00 a.m. and 10:00 p.m.; or
- (3) For a shorter duration than cited above, but no more than five (5) occasions within a given ten-day period if attested to by complainants from two (2) or more separate properties.

It shall be a defense to such violation if the owner of the dog proves by a preponderance of the evidence that the only reason the dog was howling or barking was that the dog was being incited, or was acting as a guide dog, hearing dog, service dog or police work dog.

(b) In order to abate the nuisance created by a dog howling or barking in violation of this section, dog control officers may enter the yard and may seize any such dog from the yard where the violation is occurring if the officer is unable to contact the owner or if the owner is unable or unwilling to take action to stop the howling or barking.

(Code 1966, § 8-5(A)(2); L.L. No. 1 of 2000, § 1)

Sec. 4-53. Damaging property of others.

It shall be unlawful for any owner of any dog in the town to permit or allow the dog to uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property not belonging to the owner of the dog.

(Code 1966, § 8-5(A)(3))

Sec. 4-54. Harassing people.

It shall be unlawful for any owner of any dog in the town to permit or allow the dog to chase, jump upon or at 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.

(Code 1966, § 8-5(A)(4))

Sec. 4-55. Chasing vehicles.

It shall be unlawful for any owner of any dog in the town to permit or allow the dog to habitually chase or run alongside of motor vehicles or bicy-

cles while on a public street or highway or upon public or private property other than property of the owner of or harbored of the dog.
(Code 1966, § 8-5(A)(5))

Sec. 4-56. Creation of nuisances.

It shall be unlawful for any owner of any dog in the town to permit or allow the dog to create a nuisance by overturning garbage containers and/or spreading garbage on the ground, defecating, urinating or digging in the public right-of-way in the area between the curb or ditch (or shoulder in the absence of a curb or ditch) and the private property line or on private property other than the property of the owner.

(Code 1966, § 8-5(A)(6))

Cross reference—Nuisances, Ch. 15.

Sec. 4-57. Female dogs in heat.

It shall be unlawful for any owner of any female dog in the town to permit or allow such dog to be off the owner's premises when in heat.

(Code 1966, § 8-5(A)(7))

Sec. 4-58. Dog license fees.

(a) The dog license fee set forth in subdivision one of Section 110 of the Agriculture and Markets Law is hereby increased to a total of twelve dollars and fifty cents (\$12.50) for a spayed or neutered dog and a total of seventeen dollars and fifty cents (\$17.50) for an unspayed or unneutered dog.

(b) The dog license fee set forth in subdivision two of Section 110 of the Agriculture and Markets Law is hereby increased as follows:

- (1) Fifty dollars (\$50.00) if no more than ten (10) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the owner's premises at the time of the application; or
- (2) Seventy-five dollars (\$75.00) if no more than twenty-five (25) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the premises at the time of the application; or

- (3) One hundred twenty-five dollars (\$125.00) if more than twenty-five (25) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the premises at the time of application.

(c) Such additional fees shall be the property of the town and shall be used only for controlling dogs and enforcing Article 7 of the Agriculture and Markets Law and any rule, regulation or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under Section 117 of said Agriculture and Markets Law used therefor and subsidizing public human education programs in responsible dog ownership.

(L.L. No. 15 of 1989, § 1; L.L. No. 4 of 1994, § 1)

Sec. 4-59. Removal and disposal of canine wastes.

(a) It shall be unlawful for any dog owner or person having possessions, custody or control of any dog to allow such dogs to defecate on public property, park, or private property over the objection of the owner of such property.

(b) It shall be the duty of each dog owner or person having possession, custody or control of a dog to remove any feces left by their dog on any sidewalk, gutter, street, grassy area between the street and sidewalk, park, school yard or other public property and to dispose of the same in a safe and sanitary manner; and such person shall have a visible appropriate bag or other disposal device on his possession to dispose of said feces.

(c) Any violation of this local law shall constitute a violation punishable by a fine or a civil penalty of not more than one hundred dollars (\$100.00). For the purposes of enforcing the provisions of this section, appearance tickets may be issued by police officers, dog-control officers, code inspectors and by any persons authorized to issue tickets for parking violations.

(d) The provisions of this local law shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability as defined in Subdivision 21 of Section 292 of the Executive Law.

(L.L. No. 16 of 1989, § 1; L.L. No. 3 of 2002, § 1)