

Chapter 4

ANIMALS*

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State law references—Authority to regulate animals, Town Law, § 130(10); Municipal Home Rule Law, § 10(2).

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 A "determination" becomes an "initial determination" if it is amended or superseded by a "supplemental determination."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

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, determination 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. DOG LICENSING AND CONTROL*

Sec. 4-41. Purpose.

The town finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and has created nuisances within the town. The purpose of this article is to provide for the licensing and identification of dogs, the control and protection of the dog population, and the protection of health, safety and well-being of persons and property by imposing regulations and restrictions upon the keeping or running at large of dogs and the seizure thereof within the town.

(L.L. No. 8 of 2010)

*Editor's note—Local Law No. 8 of 2010, adopted December 8, 2010, amended article III in its entirety to read as herein set out. Formerly, article III, §§ 4-41—4-59 pertained to dogs, and derived from the Code of 1966, §§ 8-1, 8-4—8-9; L.L. No. 15 of 1989, § 1; L.L. No. 16 of 1989, § 1; L.L. No. 4 of 1994, § 1; L.L. No. 1 of 2000, § 1, and L.L. No. 3 of 2002, § 1.

Sec. 4-42. Statutory authority.

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.
(L.L. No. 8 of 2010)

Sec. 4-43. Title.

This article shall be known and may be cited as the "Town of Vestal Dog Licensing and Control Ordinance."
(L.L. No. 8 of 2010)

Sec. 4-44. Definitions.

All terms not specifically defined herein shall have the meaning assigned to such terms within Section 118 of the Agriculture and Markets Law of the State of New York.

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

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:

- (1) Accompanied by and under the immediate supervision and control of the owner or other responsible person;
- (2) A police work dog in use for police work; or
- (3) 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.

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 there from.

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 a dog control officer, police officer and any other designated representative employed by or under contract with the town.

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 control officer 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. In the event any dog found in violation of this article shall be owned by a person under eighteen (18) 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).

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.

(L.L. No. 8 of 2010)

Sec. 4-45. Dog licensing; purebred licensing, identification; fees.

(a) All dogs in the town four (4) months or older, unless otherwise exempted, shall be licensed with the town clerk. Each new license application and renewal shall be accompanied by current proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.

(b) The owner of one (1) or more purebred dogs registered by a recognized registry association may annually make in application for a purebred license in lieu of the individual licenses required by this section. Holders of such licenses shall

allow for periodic inspections by the dog control officer to verify the number of dogs being housed.

(c) The licensing fee shall be waived for any guide, hearing, service, working search, detection, police and therapy dogs.

(d) All dog licenses will be for a period of one (1) year and will expire at the end of the month one (1) year from the date of issue. Dog licenses shall not be transferable.

(e) Failure to renew a dog license by the expiration date shall subject the license holder to an additional late payment fee as set forth in the schedule of fees.

(f) Every dog licensed pursuant to this section shall be assigned, at the time a dog is first licensed, an identification tag provided by the town clerk. Such tag shall include an identification number, the name of the town, the State of New York, a contact phone number and any additional information deemed appropriate to identify the dog and shall be affixed to the collar of the dog at all times.

(g) The annual license fee and any applicable surcharges for each individual dog license and purebred license issued in the town shall be an amount separately determined by town board resolution and shall be in addition to the fees prescribed by Section 110 of Article 7 the Agriculture and Markets Law. Such additional fees are the property of the town to be used for controlling dogs and the enforcement of this article and Article 7 of the Agriculture and Markets Law.

(h) Change of ownership, lost or stolen dogs. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

In the event of a change in ownership of any licensed dog or in the event of a change of address of the owner of any such dog, the owner shall, within ten (10) days of such change, notify the town clerk.

If any licensed dog is lost or stolen, the owner shall, within ten (10) days of the discovery of such loss or theft, notify the town clerk.

In the case of a dog's death, the owner shall so notify the town clerk either prior to renewal of license or upon the time of such renewal.

(i) If the town clerk is notified by another municipality in Broome County that one of their licensed dogs has moved into the town, the town clerk will issue a town license at no charge for the remainder of the license year upon presentation by the owner of the old license.

(L.L. No. 8 of 2010)

Sec. 4-46. Prohibited acts.

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

- (1) Be at large;
- (2) Engage in habitual loud howling or barking or to conduct itself in such a manner so as to unreasonably and habitually annoy any person;
 - a. It shall constitute a violation of this section if the howling or barking is continuous and is audible beyond the property line of the premises on which the dog is located:
 - For more than five (5) minutes between the hours of 10:00 p.m. and 8:00 a.m.;
 - For more than fifteen (15) minutes between the hours of 8:00 a.m. and 10:00 p.m.; or
 - For any duration other than cited above, on at least five (5) separate occurrences within a ten-day period, if attested to by complainants from two (2) or more adjacent properties.
 - b. 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.
- (3) Cause damage or destruction to public or private property;

- (4) Chase or otherwise harass any person in such a manner as reasonable to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury;
 - (5) Habitually chase, run alongside of or bark at motor vehicles or bicycles;
 - (6) Create a nuisance by overturning garbage containers and /or spreading garbage on the ground, defecating, urinating or digging on private property other than the property of the owner.
- (L.L. No. 8 of 2010)

Sec. 4-47. Removal and disposal of canine wastes.

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 his 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.

(L.L. No. 8 of 2010)

Sec. 4-48. Enforcement.

This article shall be enforced by the dog control officer, police officer and any other designated representative employed by or under contract with the town.

(L.L. No. 8 of 2010)

Sec. 4-49. Seizure, impoundment, redemption and adoption.

- (a) Any dog found in violation of the provisions of section 4-46 of this article or of Section 117 of the Agriculture and Markets Law may be seized pursuant to the provisions of Article 7 of the Agriculture and Markets Law.
- (b) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in this article.

(c) 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 by town board resolution.

(d) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth by town board resolution whether or not such owner chooses to redeem his or her dog.

(e) Promptly upon seizure of any identified dog, the owner of record shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption.

(f) The redemption period for an unidentified seized dog shall be three (3) days and for an identified seized dog shall be three (3) days if notification is given personally and seven (7) days if notification is given by certified mail.

(g) Any dog unredeemed at the expiration of the redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 117 of the Agriculture and Markets Law. An adoption fee shall be set forth by town board resolution.

(h) 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 provision of this article.

(L.L. No. 8 of 2010)

Sec. 4-50. Appearance ticket.

(a) The dog control officer, police officer and any other designated representative employed by or under contract with the town, having reasonable cause to believe that a person has violated this article, shall issue and serve upon such person 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 Article 7 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 Agriculture and Markets Law and this article.

(L.L. No. 8 of 2010)

Sec. 4-51. Complaint.

(a) Any person who observes a dog in violation of this article may file a complaint under oath with a justice of the town specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

(b) Upon receipt by the town justice of any such complaint, he shall either issue an appearance ticket as set forth in section 4-50 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 4-52, 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 Article 7 of the Agriculture and Markets Law and this article.
- (5) Such other remedy as may be warranted by the circumstances in such cases to assure compliance with this article.

(L.L. No. 8 of 2010)

Sec. 4-52. Penalties.

A violation of this article or of Article 7 of the Agriculture and Markets Law will be prosecuted pursuant to the Penal Law and shall be punishable:

- (1) By a fine of not less than twenty-five dollars (\$25.00) except that where the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five (5) years, the fine may be not less than fifty dollars (\$50.00), and where the person was found to have committed two (2) or more such violations within the preceding five (5) years, it shall be punishable by a fine of not less than one hundred dollars (\$100.00) or imprisonment for not more than fifteen (15) days, or both, or
- (2) By a fine, paid pursuant to a plea of guilty by mail, of twenty-five dollars (\$25.00) except that where the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five (5) years, the fine shall be fifty dollars (\$50.00), and where the person was found to have committed two (2) or more such violations within the preceding five (5) years, it shall be punishable by a fine of one hundred dollars (\$100.00). Security of twenty-five dollars (\$25.00) shall be posted upon a plea of not guilty made by mail.

(L.L. No. 8 of 2010)