

LL 2010-005

DOG CONTROL FOR THE TOWN OF
AMITY

LOCAL LAW

Town of Amity

Local Law No. 0 for the year 2010

A Local Law entitled Dog Control Law for the Town of Amity

Be it enacted by the Town Board of the Town of Amity, Allegany County, New York, as follows:

SECTION 1: Purpose: The Town Board of the Town of Amity finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property and have created nuisances within the Town. The purpose of this Local Law is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Town.

SECTION 2: Authority: This Local Law is enacted pursuant to the provisions of the New York State Agriculture and Markets Law and the Municipal Home Rule Law.

SECTION 3: Title: The title of this Local Law shall be Dog Control Law for the Town of Amity.

SECTION 4: Definition of Terms: As used in this Local Law the following words shall have the following respective meanings:

(a) **Agriculture and Markets Law** shall mean the Agriculture and Markets Law of the State of New York in effect, as of the effective date of this Local Law, and as amended thereafter.

(b) **Confined** shall mean that such animal is securely confined or restrained and kept on the owner's premises, either within a building, or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or animal on any adjacent premises or on any public street or way or place, 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.

(c) **Dog** shall mean male and female, licensed and unlicensed, members of the species Canis familiaris.

(d) **Dog Control Officer** shall mean any person authorized by the Town Board to enforce the provisions of this Local Law or the provisions of the Agriculture and Markets Law. A person may also be authorized by the Town Board as Assistant Dog Control Officer.

(e) **Owner** shall mean the person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost,

and such loss was promptly reported to the dog control officer and a reasonable search has been made. If a dog is not licensed, the term owner shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one (1) week prior to filing any complaint charging a violation of this Local Law, shall be held and deemed to be the owner of any dog found to be in violation of this Local Law. In the event any dog found to be in violation of this Local Law shall be owned by a minor, under the age of eighteen (18) years of age, the head of household in which such minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog in violation of this Local Law.

(f) **Harbor** shall mean to provide food and shelter to any dog.

(g) **Recreational Areas** shall mean any real property owned by the Town of Amity, which is used primarily for recreational purposes by the public, including, but not limited to, parks and playgrounds.

(h) **Be at Large** shall mean to be in a public place or on private land without the knowledge, consent and approval of the owner or occupant of such lands.

(i) **Town** shall mean the area within the limits of the Town of Amity, Allegany County, New York.

(j) **Clerk** shall mean the Clerk of the Town of Amity who validates or issues dog licenses.

(k) **Regular License** shall mean the license authorized and issued pursuant to this Local Law for the licensing and identification of dogs.

(l) **Kennel License** shall mean any license authorized and issued pursuant to this Local Law for kennels.

(m) **Fees** shall mean dog license fees pursuant to this Local Law.

SECTION 5: Licensing of Dogs, Rabies Vaccination Requirement:

All dogs in the Town of Amity must be licensed with the Town Clerk by the age of four (4) months and are required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license, unless otherwise exempt. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town of Amity a dog license application together with the license application fee, applicable license surcharges and such additional fees as may be authorized and imposed by the Town of Amity. Each license shall be valid for a period of one year and shall not be transferable.

SECTION 6: Exemption: Any dog harbored within the Town of Amity which is owned by a resident of New York City, or licensed by the City of New York, or any other municipality of the

State of New York, or which is owned by a non-resident of New York State and licensed by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this Local Law.

SECTION 7: Identification Tag: Any dog identification tag issued is required to have on it the name of the licensing municipality, a reference to the State of New York and municipality contact information, including a phone number.

SECTION 8: Kennel License: The Town of Amity hereby establishes a kennel license fee, which shall be paid by any applicant who has a dog kennel in the Town of Amity. The fee shall consist of a surcharge of thirty (\$30.00) dollars for one (1) to ten (10) dogs, fifty (\$50.00) dollars for eleven (11) to twenty-five (25) dogs and one hundred five (\$105.00) dollars for twenty-five (25+) dogs, which fee shall be in addition to any and all other fees established and authorized by the Town Board.

SECTION 9: Regular Licensing Fees:

- (a) The Town of Amity hereby establishes the license fees for dog licenses issued pursuant to this Local Law as \$7.50 for all spayed or neutered dogs and \$15.50 for all unspayed and unneutered dogs. A fee of \$3.00 shall be charged for the replacement of lost dog tags.
- (b) Each dog licensed pursuant to this Local Law shall be assigned, at the time the dog is first licensed with the Town, a municipal identification tag. This tag shall be affixed to a collar on the dog at all times, provided that the Town may exempt dogs participating in a dog show during participation.
- (c) No one may affix an improper identification tag.
- (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.
- (e) Exempt from payment of the license fee are applications submitted for a dog license for any guide, hearing, service, war, working search, detection, police and therapy dogs, upon presentation of appropriate certifications.
- (f) In addition to the license fee establish in sub-division (a) above, each applicant for a dog license shall pay the New York State mandated surcharge of \$1.00 for all spayed and neutered dogs and \$3.00 for unspayed and unneutered dogs, which shall be held by the Town of Amity and paid as directed by law.
- (g) The Town Board of the Town of Amity will govern and amend all license fees, surcharges and penalties by resolution or ordinance.

SECTION 10: Restrictions: It shall be unlawful for any owner of any dog in the Town of Amity to permit or allow such dog to:

(a) Engage in habitual and loud howling, barking, crying or whining or conduct itself in such a manner as to unreasonably and habitually disturb the comport or repose of any person other than the owner of such dog.

(b) 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.

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

(d) Chase, run alongside of, or bark at motor vehicles, motorcycles or bicycles while on a public street, highway, or upon public or private property other than the property of the owner or harbored of said dog, in such a manner as to unreasonably disturb the operator of a motor vehicle or bicycle.

(e) Create a nuisance by defecating on recreational areas, or any other public or private property without the consent or approval of the owner of such property.

(f) No person who owns a dog shall permit the premises, structures or enclosures in which such dog is kept to be unclean or unsanitary

(g) Be at large unless said dog is restrained by an adequate leash, not exceeding eight (8') feet in length or said dog is accompanied by its owner or a responsible person able to control it by command. A sporting dog or dogs taken to the field for hunting or training by their owner or other person hunting with or training such dog shall not be considered to be in violation of this section

Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 5 of this Local Law shall be presumptive evidence against the owner or harbored of such dog that he or she has failed to properly leash or control his or her dog, and has permitted or allowed such to occur.

SECTION 11: Enforcement: This Local Law shall be enforced by the Dog Control Officer, Assistant Dog Control Officer, by any peace officer, police officer, or any person having jurisdiction under the Agriculture and Markets Law.

SECTION 12: Seizure of Dogs:

(a) The Dog Control Officer, Assistant Dog Control Officer, any peace officer or police officer having jurisdiction in the Town of Amity, or jurisdiction pursuant to the Agriculture and Markets Law may seize:

1. Any unlicensed dog whether on or off the owner's premises;
2. Any dog found in violation of section 10 of this Local Law.

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 and disposed of in accordance with the applicable provisions of the Agriculture and Markets Law and this Local Law.

SECTION 13.: Redemption of Seized Dogs and Redemption Fees:

- (a) Every dog seized in accordance with section 12 above shall be properly fed and cared for at the expense of the Town of Amity, until disposition thereof is made as herein provided. The redemption of a seized dog shall be in conformance with and pursuant to the provisions of the Agriculture and Markets Law and this Local Law both as to licensed and unlicensed dogs.
- (b) In the event the dog bears a license tag, the Dog Control Officer shall ascertain the owner of the dog and immediately notify such owner personally, or an adult member of the family, if at all practicable. If the owner is unable to be contacted personally, written notice shall be sent by certified mail, stating that the dog has been seized and that the dog will be destroyed unless redeemed within the period hereinafter provided.
- (c) If notification has been given to owner personally, the dog will be held for five (5) days. If notice is given by certified mail, the dog will be held for a period of twelve (12) days from the date of mailing. If the owner of the dog cannot be identified, such dog shall be held for five (5) days.
- (d) The owner of a dog seized may redeem the dog, within the time period stated above, by paying the Town Clerk of the Town of Amity the redemption fee of \$20.00 per day or any portion thereof.
- (e) If the owner fails to claim the dog by the expiration of the redemption period, the dog shall then be made available for adoption or disposed of. The choice of disposal or adoption shall be solely in the discretion of the Dog Control Officer. If the dog is not redeemed within the above periods of time and the dog is adopted or disposed of, the owner shall still be liable and must pay the redemption fees, including the day of disposition.
- (f) The Dog Control Officer is hereby authorized to dispose of any dog seized after the date of redemption has expired. If the dog is adopted by a new owner, or if the original owner is not known, the new owner shall not be liable for the redemption fees. The new owner shall still be responsible for spaying or neutering the dog.
- (g) No action shall be maintained against the Town of Amity, any designated Dog Control Officer or any other authorized agent of the Town of Amity, to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law.

SECTION 14: Complaints: Any person who observes a dog in violation of this Local Law may file a written complaint with the Dog Control Officer, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence address, if known, of the owner of the dog. All complaints shall be investigated and it shall be the duty of the Dog Control

Officer to proceed with civil or criminal enforcement of this ordinance or any other provision of law pertaining thereto, if the investigation and evidence warrant the same.

SECTION 15: Method of Enforcement:

(a) The Dog Control Officer may elect either to prosecute the violation criminally under the Penal Law, or to commence an action to recover a civil penalty.

(b) A conviction for a violation of this Local Law prosecuted criminally under the Penal Law shall be a Violation and not a Misdemeanor punishable by a fine of not more than \$100.00 for the first offense; and where the defendant was found to have committed two or more violations of this Local Law within the preceding five (5) years, it shall be punishable by a fine of not more than \$250.00 or imprisonment for not more than 15 days, or by both such fine and imprisonment.

(c) A violation of this Local Law prosecuted by civil action shall subject the defendant to a civil penalty of not more than \$100.00 and where the defendant was found to have committed two or more violations of this Local Law within the preceding five (5) years, the civil penalty shall not be more than \$250.00.

SECTION 16: Separability: Each separate provision of this Local Law shall be deemed independent of all other provisions herein and if any provision shall be deemed or declared invalid or unenforceable, all other provisions shall remain valid and enforceable.

SECTION 17: This Local Law will repeal, amend and replace all prior ordinances and Local Laws dealing with this subject matter.

SECTION 18: Effective Date: This Local Law shall take effect on January 1, 2011, after filing with the New York State Secretary of State.

I hereby certify that the Local Law annexed hereto, designated as Local Law No. ___ of 2010 of the Town of Amity was duly passed by the Town Board on the ___ day of _____, 2010, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding Local Law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original Local law, and was finally adopted in the manner indicated in the paragraph above.

(SEAL)

Richard Winterhalter, Town Clerk
Town of Amity
Dated: _____

STATE OF NEW YORK }

ss.:

COUNTY OF ALLEGANY }

I, the undersigned, hereby certify that the foregoing Local Law contains the correct text and that all proper proceedings have been had or taken for the enactment of the Local Law annexed hereto.

Keith A. Slep, Esq., Town Attorney
Town of Amity
Dated: _____