

LOCAL LAW NO. 4 OF THE YEAR 2010

A Local Law entitled “Local Law No. 4 of the Year 2010, Dog Control Law of the Town of Wappinger”.

BE IT ENACTED by the Town Board of the Town of Wappinger as follows:

Section I: Title:

This Local Law shall be known and cited as Town of Wappinger, “Local Law No. 4 of the Year 2010, Dog Control Law of the Town of Wappinger” and by adoption hereof shall rescind the present Chapter 68 of the Town Code entitled “Animals” and replace it with a new Chapter 68 entitled “Dog Control Law”.

Section II: Amendments:

The Town of Wappinger Code, Chapter 68, entitled “Animals”, including Article I entitled “Dog Control” and Article II entitled “Licensing Fees” is hereby rescinded in its entirety and is hereby replaced with an entirely new Chapter 68 entitled “Dog Control Law” to read as follows:

“CHAPTER 68. DOG CONTROL LAW

§ 68-1. Legislative Intent; Purpose.

The purpose of this Local Law is to provide for the licensing and identification of dogs, the control and protection of the dog population, the protection of persons, property, domestic animals and deer from dog attack and damage, and to otherwise 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.

This Local Law is also intended to implement the recent amendments to the Agriculture and Markets Law enacted pursuant to Part T of Chapter 59 of the Laws of 2010. The amendments to the Agriculture and Markets Law provided for two major changes:

- A. transferring the function of dog licensing from the state to local governments; and
- B. authorizing the New York State Animal Population Control Program (APCP) to be administered by a not-for-profit entity selected by the department consistent with New York's Procurement Laws.

§ 68-2. Authority.

This Local Law is authorized pursuant to the provisions of Part T of Chapter 59 of the Laws of 2010 amending Article 7 of the Agriculture and Markets Law and pursuant to the Municipal Home Rule Law of the State of New York.

§ 68-3. Title.

The title of this Chapter shall be "Dog Control Law".

§ 68-4. Definition of Terms.

As used in this Local Law, the following words shall have the following respective meanings:

- A. "Clerk" means the Town Clerk of the Town of Wappinger
- B. "Dangerous dog" means a dog which qualifies as dangerous pursuant to the provisions of the Agriculture and Markets Law.
- C. "Dog" means male and female, licensed and unlicensed, members of the species *canis familiaris*.
- D. "Dog Control Officer" means a person authorized by the Town Board by resolution to enforce the provisions of this Chapter. The Dog Control Officer shall have the power to execute the provisions of this Chapter, including service of a summons, the service of an appearance ticket pursuant to and in accordance with § 126 of the Agriculture and Markets Law of the State of New York and the service and execution of any other order of process, to appear and prosecute any matter arising under this Chapter or Article 7 of the Agriculture and Markets Law.

E. “Habitually” means on more than one occasion within a thirty-day period.

F. “Identification tag” (ID tag) means a tag, issued by the clerk to the owner of a specific dog, containing a serial number, the name of the licensing municipality (Town of Wappinger), the State name, the contact phone number for the clerk’s office, and any such other information as the Town Clerk of the Town of Wappinger may deem appropriate.

G. “Owner” means any person or entity 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 Town of Wappinger Dog Control Officer or the Town of Wappinger Town Clerk, and a reasonable search has been made. If a dog is not licensed, the term “Owner” shall be deemed to include any person or persons, firm, association or corporation who or which, at any time, owns or has possession, custody or control of, harbors or otherwise maintains any dog which is kept, brought, or comes within the jurisdictional boundaries of the Town of Wappinger. Any person who owns or harbors a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this Chapter shall be deemed to be the owner of said dog. If the owner of any dog is under 18 years of age, the head of the household in which said 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 accordance with this Chapter.

H. “Responsible person” means any individual, male or female, over the age of sixteen (16) years, other than the Owner, who at any time has possession, custody or control of any dog.

I. “Run at Large” means any dog which is unrestrained by a leash or other tether and walks, runs, or roams in a public place or on private land without the knowledge, consent and approval of the owner of such lands.

J. “Town” means the Town of Wappinger.

§ 68-5. Licensing of Dogs Required.

A. All dogs aged four (4) months or older, located, owned or harbored in the Town of Wappinger, unless otherwise exempted, shall be licensed as herein provided. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town of Wappinger a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town of Wappinger or otherwise authorized by the Agriculture and Markets Law. Each license application shall be accompanied by 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. Each license issued shall be valid for a period of one (1) year or for such other period as authorized by this Local Law. Such license shall not be transferrable.

B. The application shall be on forms prepared by the Clerk and shall contain the following information: name of dog, sex of dog, whether the dog is spayed or not spayed, neutered or not neutered, actual or approximate age of dog, the breed of the dog, the primary and secondary colors of the dog, any identifying markings or tattoos on the dog, the physical and mailing address of the dog owner and a working phone number for the owner of the dog. The Town Clerk of the Town of Wappinger may also require additional information on such application as deemed appropriate.

C. A dog owner applying for an initial license shall make such application in person at the Town Clerk's Office. Subsequent renewals of dog licenses may be made via regular mail or recognized overnight delivery service, provided that the renewal application is accompanied by a statement certified by a licensed veterinarian stating that the dog has been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reasons the life of the dog or dogs would be endangered by the administration of vaccine or as required by Section 109.2 of the Agriculture and Markets Law.

D. The Clerk, at the time of issuing any license pursuant to this Section, shall require the Applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies, or in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reasons the life of the dog or dogs would be endangered by the administration of vaccine.

E. Rabies certificates shall be honored for either a one (1) year license period, two (2) year license period or a three (3) year license period as stated in the veterinarian certificate.

F. In the case of a spayed or neutered dog, the application for a license or renewal thereof shall be accompanied by a certificate, signed by a licensed veterinarian, certifying that the dog has been spayed or neutered, unless such certificate has already been placed on file with the Town Clerk.

G. Dogs will be licensed for one (1), two (2) or three (3) year license periods. The expiration date will be the last day of the month of issuance, one (1), two (2) or three (3) years from the date of issue, depending on the length of term chosen by, and paid for by, the owner of said dog except as provided by subparagraph "H" below.

H. No dog license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed.

I. No dog license shall be issued by a shelter, or any other entity, on behalf of the Town of Wappinger.

J. No dog license shall be transferable; upon the transfer of ownership of any dog, the new owner shall immediately make application for and obtain a license for such dog.

K. The Town of Wappinger will not issue Purebred or Kennel licenses. All dogs will be licensed individually in accordance with this Local Law.

L. Dog licenses issued by another agency, municipality or shelter will not be recognized by the Town of Wappinger. The Town of Wappinger does not credit unexpired terms of licenses issued by another municipality, nor does it refund licensing fees for any reason, including, but not limited to: dogs and dog owners that relocate to a municipality other than the Town of Wappinger, dogs that are no longer alive, dogs that are relinquished or transferred to another owner and dogs that are missing, gone or lost. Notwithstanding the foregoing, any dog harbored within the Town of Wappinger by a resident of the City of New York and licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside of 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.

M. The Town Clerk shall provide the dog owner with a copy of the dog license and retain a copy in the Town Clerk's Office in accordance with the New York State Archives Records Retention and Disposition Schedule, MU-1.

§ 68-6. Change of Ownership; Lost or Stolen Dog.

A. In the event of a change in the ownership of any dog which has been licensed pursuant to this Chapter, or in the address of the owner of record of any such dog, the owner of record shall, within ten (10) days of such change, file with the Town Clerk of the Town of Wappinger a written report of such change. Such owner of record shall be liable for any violation of this Chapter until such filing is made or until the dog is licensed in the name of the new owner.

B. If any dog which has been licensed pursuant to this Chapter is lost or stolen, the owner of record shall, within ten (10) days of the discovery of such loss or theft, file with the Town Clerk of the Town of Wappinger a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this Chapter committed after such report is filed with the Clerk.

C. In the case of a dog's death, the owner of record shall so notify the Town Clerk of the Town of Wappinger either prior to the renewal of licensure or upon the time of such renewal as set forth by the Town of Wappinger.

§ 68-7. Identification of Dogs (ID Tag).

A. Each dog licensed in the Town of Wappinger will be issued a serialized identification tag (ID tag). Such ID tag shall be affixed to the collar of such dog at all times. Dogs participating in a dog show are not required to display an ID tag during such participation. The ID tag shall contain the information set forth in § 68-4.F. above.

B. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

§ 68-8. Fees.

A. Fees for dog licenses are set forth in Chapter 122, Article IV, Section 122-16.C.(3) of the Code of the Town of Wappinger.

B. Dog licensing fees shall be determined by the Town Board of the Town of Wappinger and may be amended at any time by said Town Board. All revenue derived from such fees shall be the sole property of the Town of Wappinger and shall be used only for controlling dogs and enforcing this Chapter.

C. In addition to the fees set forth in Chapter 122, Article IV, Section 122-16.C.(3) of the Code of the Town of Wappinger, an additional \$3.00 per year shall be assessed to a license for a dog that is not spayed or not neutered and an additional \$1.00 per year shall be assessed to a license for an altered (spayed or neutered) dog. This additional charge is assessed for the purposes of carrying out animal population control efforts. These surcharge fees will be remitted by the Town Clerk, on a monthly basis, to the state-designated entity chosen to oversee the Animal Population Control Fund.

D. When the Town Board of the Town of Wappinger determines the need for a dog enumeration or dog census, a fee of \$5.00 will be assessed to the owners of all dogs found to be unlicensed at the time the enumeration is conducted. Such fees shall be the sole property of the Town of Wappinger and shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event that the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the municipality for enforcing this Chapter and for animal population control programs.

E. The licensing process and fees set forth in this Chapter, and in Section 122 of the Town Code, do not apply to any wholesale dog breeders licensed with the United States Department of Agriculture, to any dog confined to the premises of any public or private animal hospital devoted solely to the treatment of sick animals, or to any dog confined for the purposes of research at the premises of any college or other educational or research institution.

F. Certified guide dogs, war dogs, police dogs, therapy dogs, service dogs, hearing dogs or detection dogs shall be exempt from any licensing fee. However, the owner of any certified guide dog, war dog, police dog, therapy dog, service dog, hearing dog or detection dog must, however, maintain a current license in accordance with § 68-5 of this Chapter. Special tags will not be issued for dogs exempt from fees pursuant to this subparagraph.

§ 68-9. Restrictions.

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

A. Run at large off the premises of the owner unless the dog is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this Local Law, a dog or dogs, while hunting in the company of a hunter or hunters, shall be deemed accompanied by its owner;

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

C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property of another person or entity without the consent or approval of the property owner thereof;

D. Chase, jump upon, attack, 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 or fear of bodily harm; chase, jump upon, attack any other animal whether or not it caused such animal physical or bodily harm;

E. Habitually chase, run alongside of or bark at motor vehicles, motorcycles, bicycles or pedestrians while on a public street, highway or place, or upon private property, without the consent or approval of the owner of such property;

F. Create a nuisance by defecating, urinating or digging on public property or on private property without the consent or approval of the owner of such property;

G. If a female dog, when in heat, be off the owner's premises unrestrained by a leash; or

H. Not to obtain a dog license as required by §68-5 of this Chapter.

§ 68-10. Enforcement.

This article shall be enforced by the Dog Control Officer, any law enforcement officer, or any peace officer.

A. The Dog Control Officer, any law enforcement officer, or any peace officer observing a violation of this chapter in his or her presence or having reasonable cause to believe that a person has violated the provisions of this chapter or, harbored a dog in violation of this chapter, shall issue and serve an appearance ticket for such violation. The appearance shall

be in the form prescribed by the provisions of § 126 of the Agriculture and Markets Law, as it may be amended from time to time hereafter, and this Chapter.

B. The Dog Control Officer, any law enforcement officer, or any peace officer shall seize any unlicensed dog, whether on or off the owner's premises; any dog not wearing a tag and which is not on the owner's premises; or any dog found in violation of any provision of this Chapter. The Dog Control Officer, law enforcement officer, or peace officer may also investigate and commence a proceeding pursuant to § 121 of the Agriculture and Markets Law involving any dangerous dog, as described in that section, and see that the order of the Town Justice in such case is carried out.

C. Any person who observes a dog in violation of this chapter may file a complaint, under oath, as that term is defined by the Criminal Procedure Law, with the Town Justice, stating the nature of the violation, the date thereof, a description of the dog and the name and address of the residence of the owner of such dog, if known. The Dog Control Officer, law enforcement officer, or peace officer shall be authorized to assist any such person in making such a complaint. Such a complaint may serve as the basis for enforcing the provisions of this Chapter.

§ 68-11. Seizure of Dogs.

A. The Dog Control Officer, any law enforcement officer, or any peace officer shall seize:

1. Any dog which has violated any of the provisions of this Chapter or Article 7 of the Agriculture and Markets Law;
2. Any dog which is not licensed, whether on or off the owner's premises;
3. Any dog which is not wearing an identification tag, not identified, and which is not on the owner's premises;
4. Any licensed dog which is not in the control of its owner or a responsible person and not on the premises of the dog's owner or a responsible person; and
5. Any dog which poses an immediate threat to the public health and safety or otherwise qualifies as a dangerous dog pursuant to the provisions of the Agriculture and Markets Law.

B. The Dog Control Officer, any law enforcement officer, or peace officer may also investigate and commence a proceeding pursuant to Section 123 of the Agriculture and Markets Law involving any dangerous dog, as described in said section and shall carry out any order of the Town Justice of the Town of Wappinger in connection therewith. Any such dog shall be impounded or taken to such place as may be designated by the Town Board as a place of detention, until disposition thereof shall have been made in accordance with the provisions of this Chapter.

C. Promptly upon seizure, the Dog Control Officer, law enforcement officer, or peace officer shall issue and serve an appearance ticket on the dog owner and shall carry out any order of the Town Justice of the Town of Wappinger or any Justice having jurisdiction of the matter.

D. Each seized dog which is not identified, whether licensed or not, shall be held for a period of five (5) days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this Chapter and further provided that the owner pays the relevant redemption and impoundment fees in accordance with Section 122 of the Town Code.

E. All monies collected as fines or penalties as a result of any prosecution for violations of the provisions of this Chapter, and all bail forfeitures by persons charged with such violations, shall be the sole property of the Town of Wappinger and shall be used only for controlling dogs and enforcing this Chapter.

F. An owner shall forfeit title to any dog unredeemed at the expiration of the redemption period, and the dog shall then be made available for adoption or shall be euthanized pursuant to the provisions of subdivisions 2-a, 2-b, 2-c, 2-d and 2-e of section 374 of Chapter 59 of the Laws of New York, 2010.

G. Any person who observes a dog in violation of this Chapter may file a complaint under oath with the Town Justice, Dog Control Officer, law enforcement officer or peace officer, specifying the nature of the violation, the date thereof, a description of the dog and the address, if known, of the owner of such dog. Such complaint is subject to the Freedom of Information Act. However, all identifying information pertaining to the complainant shall be redacted prior to the release of such complaint. Such complaint may serve as a basis for enforcing the provisions of this Chapter.

§ 68-12. Redemption.

A. Any dog seized by the Dog Control Officer, any law enforcement officer, or any peace officer shall be deemed to be in the control of the Dog Control Officer and shall continue to be impounded or otherwise held in accordance with this Local Law and be held by him or her for the following prescribed time periods:

1. Unlicensed or unidentified dog: five (5) days;
2. Licensed dog: five (5) days (if personal notice given to owner or responsible person, from date of notice); and
3. Licensed dog: seven (7) days (if mail notice given to owner or responsible person, from date of mailing).

B. At any time during the period of redemption, the owner of any dog seized may redeem such dog, provided that such owner produces proof that the dog has been licensed and has been identified, provided that the owner pays all relevant redemption and impoundment fees as set forth in Chapter 122, Article IV, § 122-16C of the Code.

§ 68-13. Disposition of Seized Dogs.

An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period and the dog shall then be available for adoption or euthanized. The Town should keep for one year a record of the disposition of all dogs seized, which records shall be open to public inspection.

§ 68-14. Adoption.

A. At the expiration of the appropriate redemption period, an unredeemed dog may be made available for adoption upon payment of the adoption fees as set forth in Chapter 122, Article IV, § 122-16.C.(2) of the Code.

B. Adoption of either a male or female dog shall be further conditioned upon the provision that the dog shall be spayed or neutered before release from custody of the Dog Control Officer and at the expense of the adoptive owner. Puppies six months and under shall be exempt from the spaying and neutering requirements. They shall be released from custody on the express written stipulation that at such time as the owner's veterinarian deems it appropriate, that such dog shall then be spayed or neutered. Such written stipulation shall be provided to the Dog Control Officer who shall verify its compliance by written certificate from the veterinarian that such spaying or neutering has been performed at the appropriate time. Failure to comply with such stipulation shall be a violation of this Chapter and be grounds for seizure of said dog.

§ 68-15. Trial Procedure.

The owner of a dog who is issued an appearance ticket pursuant to § 68-10 herein, may answer the same by registered or certified mail, return receipt requested, within five (5) days of the service of the appearance ticket as hereunder provided in lieu of a personal appearance on the return date at the time and court specified in said appearance ticket.

A. For each case commenced in a local Justice Court, the Dog Control Officer, law enforcement officer, or peace officer shall immediately file an information with the Town Justice. Said information shall be filed with the appearance ticket, if an appearance ticket is issued. If no appearance ticket is issued, the information shall be filed with the court and the

action otherwise commenced and jurisdiction over the defendant made in accordance with the Criminal Procedure Law.

B. The defendant charged with a violation of the Chapter may himself or herself plead guilty to the charge in open court. He or she may also submit to the Town Justice having jurisdiction, in person, by duly authorized agent or by registered mail, a statement that waives arraignment in open court and the aid of counsel, that he or she pleads guilty to the offense charged, that he or she elects and requests that the charge be disposed of and the fine penalty fixed by the court, of any explanation that he or she desires to make concerning the offense charge and that he or she makes all statements under penalty of perjury. Thereupon, the Town Justice may proceed as though the defendant had been convicted upon a plea of guilty in open court; provided, however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall be paid and discharged in full. If upon receipt of the aforesaid statement the defendant shall deny the same, shall thereupon notify the defendant of this fact, and that he is required to appear before the Justice at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

§ 68-16. Violation; Penalties for Offenses

A. Any person convicted of a violation of this Chapter and/or Article 7 of the Agriculture and Markets Law shall be deemed to have committed a violation and shall be subject to a fine in the amount set forth in Chapter 122-20.D.(1) of the Code of the Town of Wappinger or imprisonment for a period not to exceed 15 days.

B. Every person violating any provisions of this Chapter shall also be subject to a civil penalty in the amount set forth in Chapter 122-20.D.(2) of the Code of the Town of Wappinger.”

Section III: Separability:

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Wappinger that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence,

subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section IV: Numbering for Codification:

It is the intention of the Town of Wappinger and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Wappinger; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not effect the validity of this Local Law or the provisions of the Code effected thereby.

Section V: Effective Date:

This Local Law shall become effective immediately upon filing with the Secretary of State as provided by law Municipal Home Rule Law.