

THE TOWN OF DEERPARK, ORANGE COUNTY , NEW YORK

LOCAL LAW NO. 7 OF 2010

**A LOCAL LAW AMENDING CHAPTER 99 OF THE TOWN OF DEERPARK CODE
AND CREATING A PROCEDURE FOR THE LICENSING OF DOGS IN THE TOWN
OF DEERPARK**

Chapter 99, ANIMALS

ARTICLE I, Dog Licensing

§99-1. Purpose.

The Town Board of the Town of Deerpark finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to person and 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 establishing for the licensing and identification of dogs and imposing restrictions on the keeping and running at large of dogs within the Town.

The Town also recognizes effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing function to local municipalities and eliminated the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue.

§99-2. Definitions.

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

ADOPT – means the delivery to any natural person eighteen years of age or older, for the purpose of harboring a dog, seized or surrendered, or any cat from the Town’s animal shelter.

AGRICULTURE AND MARKETS LAW – the Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article and as amended thereafter.

ANIMAL/DOG CONTROL OFFICER – means any individual appointed by the Town Board to assist in the enforcement of this Chapter.

CLERK – means the Town Clerk, or Deputy Town Clerk, of the Town of Deerpark, where licenses are to be validated or issued.

CONFINED – that such 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 or other effective tether of such length and so arranged that the animal cannot reach

or endanger any person on any adjacent premises or on any public street, 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.

DETECTION DOG – means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

DOG – means any member of the species canis familiaris.

DOG CONTROL OFFICER – any person authorized from time to time to enforce the provisions of the Agriculture and Markets Law of the State of New York and provisions set forth in this article.

GEESE DOG – means any dog that is trained to aid the Animal/Dog Control Officer in the control of geese within the boundaries of the Town.

GUIDE DOG – means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the State of New York during the period such dog is being trained or bred.

HARBOR – means to provide food or shelter to any dog or cat.

HEARING DOG – means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such training.

IDENTIFICATION TAG – means a tag which sets forth an identification number, as required by the provisions set forth in this article.

TOWN – means Town of Deerpark, including incorporated areas.

OWNER – means any person who harbors or keeps any dog, cat or other animal.

PERSON WITH DISABILITY – means any person with a disability as that term is defined in Subdivision 22 of Section 292 of the New York State Executive Law.

POLICE WORK DOG – means any dog owned or harbored by any municipal police department or any State or Federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

RECREATIONAL AREAS – any real property owned by the Town of Deerpark which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE – to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands

SENIOR RESIDENT – means any resident of the Town age 65 or older.

SERVICE DOG – means any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person’s parent, guardian or other legal representative. SERVICE DOG shall also refer to dogs defined herein as a DETECTION DOG, GEESE DOG, GUIDE DOG, HEARING DOG, POLICE WORK DOG, THERAPY DOG, and WORKING SEARCH DOG.

THERAPY DOG – means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing home, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such purpose.

TOWN – the area within the corporate limits of the Town of Deerpark.

WAR DOG – means any dog which has been honorably discharged from the United States armed services.

WORKING SEARCH DOG – means any dog that is trained to aid in the search for missing persons and is actually used for such purposes; provided, however, that such services provided by said dog shall be performed without charge or fee.

§99-3. Dog Licensing Requirements/Procedures.

A. Licensing of Dogs.

- (1) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large. A license shall be renewed after a period of one year beginning with the first date of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.
- (2) Application for a dog license shall be made to the Clerk.
- (3) The application shall state the sex, actual or approximate year of birth, breed color(s), and official identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town of residence of owner.
- (4) The application shall be accompanied by a license fee as listed below and a valid certificate of rabies vaccination or statement in lieu thereof. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided such certificate shall not be required if the same is already on file with the clerk

- (5) Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.
- (6) The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.
- (7) No license shall be transferable. Upon the transfer or ownership of any dog, the new owner shall immediately make application for a license for such dog.
- B. Purebred Licenses. There will not be distinct purebred licenses as previously provided for by the State. Any and all existing purebred licenses will now be required to comply with Section 3 of this Chapter.
- C. Rabies Vaccination. The Clerk, at the time of issuing any license pursuant to this Article, 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 age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.
- D. Enumeration. In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay a fee of \$5.00. Such additional fee shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event 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 Town for any other lawful purpose.

§ 99-4. License fees.

- A. For each spayed or neutered dog: \$6.
- B. For each unspayed or unneutered dog: \$16, per dog.
- C. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog or police work dog. Each copy of any license for such dogs shall be conspicuously marked guide dog, hearing dog, service dog, war dog, working search dog or police work dog, as may be appropriate, by the Town Clerk.
- D. Fees may be changed from time to time pursuant to the Town Code and existing local law. License fees may also change based upon state surcharge payments.

§99-5. Identification of Dogs.

- A. Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dogs at all time.
- B. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
- C. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner.
- D. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

- E. The identification tag shall be imprinted with the “Town of Deerpark”, a unique identification number and the telephone number of the Town Clerk’s office.

§99-6. Change of Ownership, Lost or Stolen Dogs.

- A. In the event of a change in ownership of any dog which has been assigned an official identification number or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Clerk.
- B. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Clerk.
- C. In the case of a dog’s death, the owner of record shall so notify the Clerk either prior to renewal of license or upon the time of such renewal.

§99-7. Violations.

- A. It shall be a violation, punishable as provided in subdivision two of this section, for:
 - (1) any owner to fail to license a dog.
 - (2) any owner to have any dog identified as required by this Article.
 - (3) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs.
- B. It shall be the duty of the Dog Control Officer of the Town to bring an action against any person who has committed within the Town any violation set forth in § 99-7, Subsection A, of this article. A violation of this section shall be punishable as follows:
 - (1) A fine of not more than \$50, except that:
 - a. Where the person was found to have previously violated this section once within the preceding five years, the fine shall be not be more than \$100; and
 - b. Where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not more than \$200.

§99-8. Separability of Provisions.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§99-9. Effective Date.

This local law shall take effect immediately upon filing wit the Secretary of State in Albany.

ARTICLE II, Dog Control

§ 99-10. Title.

This article shall be entitled "Dog Control Law of the Town of Deerpark, Orange County, New York."

§ 99-11. Legislative intent.

The Town of Deerpark Town Board finds that the running at large and other uncontrolled behavior of dogs has caused physical harm and mental disturbance to persons, damage to property and 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 by dogs within the Town.

§ 99-12. Authority.

This article is enacted pursuant to the provisions of § 124 of Article 7 of the Agriculture and Markets Law of the State of New York.

§ 99-13. Definitions and word use.

- A. As used in this article, the following words shall have the following respective meanings:
- (1) ADOPTION -- The delivery to any natural person 18 years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.
 - (2) AGRICULTURE AND MARKETS LAW -- The Agriculture and Markets Law of the State of New York, in effect as of the effective date of this article and as amended thereafter.
 - (3) CLERK -- The Town Clerk of the Town of Deerpark where licenses are issued or validated.
 - (4) COMMISSIONER -- The State Commissioner of Agriculture and Markets.
 - (5) DOG -- Any member of the species *canis familiaris*.
 - (6) DOG CONTROL OFFICER -- Any person authorized by the Town Board to enforce the provisions of this article or the provisions of the Agriculture and Markets Law, including but not limited to Dog Control Officer, Police Officer and Building Inspector.
 - (7) EUTHANIZE -- To bring about death by a humane method.
 - (8) GUIDE DOG -- Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.
 - (9) HARBOR -- To provide food or shelter to any dog.
 - (10) HEARING DOG -- Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purposes.

- (11) IDENTIFICATION TAG -- Any tag which sets forth an official identification number as required by the Agriculture and Markets Law.
- (12) IDENTIFIED DOG -- Any dog carrying an identification tag as provided in the Agriculture and Markets Law.
- (13) OFFICIAL IDENTIFICATION NUMBER -- A series or combination of letters, numbers or symbols approved and furnished by the Commissioner.
- (14) OWNER -- Any person who harbors or keeps any dog.
- (15) OWNER OF RECORD -- The person in whose name any dog was last licensed pursuant to the Agriculture and Markets Law, except that if any license is issued on application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of § 113 of the Agriculture and Markets Law, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under 18 years of age, the owner shall be deemed to be the parent or guardian of such person.
- (16) PERSON -- Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.
- (17) PERSON WITH A DISABILITY -- Any person with a physical impairment which is permanent and severely limits such person's mobility or a person who is unable to ambulate without the aid of a wheelchair or other prosthetic device.
- (18) POLICE WORK DOG -- Any dog owned or harbored by any state or municipal Police Department or any state or federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purposes.
- (19) SERVICE DOG -- Any dog that is trained to aid a person with a disability and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.
- (20) TOWN -- Town of Deerpark, a municipal subdivision of the State of New York, Orange County.
- (21) WAR DOG -- Any dog which has been honorably discharged from the United States Armed Services.
- (22) WORKING SEARCH DOG -- Any dog that is trained to aid in the search for missing persons and is actually used for such purpose.

B. "Shall" is mandatory; "may" is permissive.

§ 99-14. Limitations on dog barking.

It shall be unlawful for any person to own or harbor a dog which habitually barks between the hours of 7:00 a.m. and 9:00 p.m. for more than one hour or for a period of less than one hour, but more than 1/2 hour, when said period occurs on two consecutive days. Between 9:00 p.m. and 7:00 a.m. barking for more than 1/2 hour or for a period of less than 1/2 hour but more than 1/4 hour when said period occurs on two consecutive days is unlawful. Such behavior shall be deemed to cause the annoyance and discomfort of persons in the Town of Deerpark. (See warning and complaint procedure below.)

§ 99-15. Warning procedures.

- A. Any resident of the Town may request, in writing, that the Dog Control Officer warn any person who shall own or harbor any dog which habitually barks in violation of § 99-14 of this article.
- B. Any such request shall identify the owner of the premises, the owner or harbinger of the dog and the name and address of the person making the request. Upon receipt of such request the Dog Control Officer shall investigate the complaint and upon a determination that there is probable cause that such complaint is valid, shall give the owner or harbinger of the dog a warning.
- C. The warning shall consist of personal delivery of a copy of these provisions to such owner or harbinger or to someone in their household, or by mailing a copy of these written provisions if the violator resides outside the Town of Deerpark, together with a written notice that no further warning shall be given and that any future violations shall be prosecuted according to law.

§ 99-16. Penalties for dog barking offenses.

Any person found to be in violation of § 99-14 of this article shall be deemed guilty of a violation and shall be liable for a fine of not less than \$100 nor more than \$200 or imprisonment for not more than 15 days, or both such fine and imprisonment.

§ 99-17. Restrictions.

It shall be unlawful within the Town of Deerpark for any owner of any dog to permit or allow said dog:

- A. To run at large off the owner's property unless the dog is accompanied by its owner or a responsible person, either of whom must be able to control such dog by command and with knowledge, consent and approval of the owner of such private premises.
 - (1) A dog present in a public place or on private lands without the knowledge, consent and approval of the owner of such private lands shall be considered running at large, unless restrained by an adequate leash.

- (2) Dogs used for hunting, trailing, training, tracking, police work dog, service dog, or working search dog when actually used for these purposes and not restrained by a leash shall not be considered running at large.
- B. To habitually chase, run alongside, or bark at moving motor vehicles.
- C. To uproot, dig, or otherwise damage vegetables, lawns, flowers, gardens or other property not belonging to the owner of such dog.
- D. To chase, jump upon or at, or otherwise harass any person (other than the owner) in such a manner as to reasonably cause intimidation or fear, or put such person in a position of reasonable apprehension of bodily harm or injury, while off the owner's premises.
- E. To create a nuisance by defecation, urination, or digging on property not belonging to the owner of such dog.
 - (1) Removal of feces required. Any person owning or in charge of any dog which soils, defiles on or commits any nuisance on any property, without the permission of the owner of the property, shall immediately remove all feces by such dog in a sanitary manner.
 - (2) Disposal of feces. The feces removed from the aforementioned areas shall be disposed of by the person owning or in charge of any such dog, in a sealed, nonabsorbent, leakproof container.
 - (3) Exception to guide dogs. The provisions of this subsection shall not apply to blind persons who may use dogs as guides.
- F. To allow excess feces to accumulate on the owner's property.
- G. To allow a female dog to be off the owner's premises when in heat.

§ 99-18. Penalties for at large offenses.

Any person found to be in violation of § 99-17 of this article shall, upon conviction, be deemed guilty of a violation and shall be liable for a fine of not less than \$100 nor more than \$200 or imprisonment for not more than 15 days, or both such fine and imprisonment, except violations of § 99-17E(1) shall be subject to a fine of not less than \$50 nor more than \$100.

§ 99-19. Enforcement.

This article shall be enforced by the Dog Control Officer of the Town of Deerpark, as defined in § 99-2 of this article.

§ 99-20. Seizure, impoundment and redemption.

- A. Any dog found in violation of the provisions of § 99-7 of this article may be seized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption period set forth in § 118 of the Agriculture and Markets Law.

- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to Article 7 of the Agriculture and Markets Law and by paying the impoundment fee set forth in § 118 of the Agriculture and Markets Law.
- D. If the dog is to be redeemed, the owner, upon redemption, shall pay the Town Clerk a fee as follows:
 - (1) Impoundment: \$50 flat fee plus \$5 per day.
 - (2) When an owner is identifiable, if a dog is captured while running at large and returned to the dog owner: \$25 civil penalty.
 - (3) Dogs turned over to the Humane Society for euthanasia and adoption or unclaimed must be neutered or spayed when adopted from the Humane Society, at the expense of those adopting the animal.
- E. Any dog unredeemed at the expiration of the redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- F. No action shall be maintained against the Town, Dog Control Officer, peace officer, when acting pursuant to his special duties, or any other agent of the Town, or any persons under contract to the Town, to recover the possession of, or value of any dog seized or destroyed pursuant to the provisions of this article or the Agriculture and Markets Law.
- G. Any Dog Control Officer or peace officer, when acting pursuant to his special duties, observing a violation of this article in his presence may issue and serve an appearance ticket for such violation.
- H. In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and give the owner immediate notice by serving upon the owner a written notice stating that the dog was seized and stating that the dog will be destroyed or otherwise provided for, unless redeemed or a trial is demanded within 12 days of the impoundment of the dog
- I. In the event that the dog seized does not bear a license tag and the owner is unknown, the Humane Society shall be authorized to destroy the dog seven days after the impounding or to dispose of the dog by sale or other means, unless the owner redeems the dog, if permitted, or unless a trial is demanded by the owner, within seven days of seizure.

§ 99-21. Forfeiture of ownership.

If any impounded dog is not redeemed or a trial demanded within the time herein as set forth, the owner shall forfeit ownership of the dog, and it may thereafter be destroyed or otherwise provided for by the appropriate official as hereinafter provided.

- A. In the event that it becomes necessary to destroy a dog, the Dog Control Officer or any law enforcement officer shall arrange, through the Humane Society, to humanely destroy and dispose of the carcass. Any Dog Control Officer who destroys a dog must make a report in writing to the Town Clerk and such report shall be filed for one year.

- B. The owner, possessor or harbinger of any dog destroyed under the provisions of this article shall not be entitled to any compensation and no action shall be maintainable thereafter to recover the value of the animal or any other type of damage whatsoever.