

TOWN OF DEERFIELD, NEW YORK
LOCAL LAW # 2 OF 2010

A Local Law entitled "Town of Deerfield Dog Control Law".

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF
DEERFIELD, IN THE COUNTY OF ONEIDA, NEW YORK,
AS FOLLOWS:

SECTION I: Any and all local laws, ordinances and/or regulations heretofore adopted by the Town Board for the Town of Deerfield regarding the control and licensing of dogs are hereby repealed in their entirety.

SECTION II: Local Law #2 of 2010 entitled "The Town of Deerfield Dog Control Law" is hereby adopted which shall read as follows:

Section 1: Title.

The title of this Local Law shall be "Town of Deerfield Dog Control Law".

Section 2: Purpose.

The purpose of this Local Law is to protect public health and to place the cost of dog control and dog enumeration on those who own and harbor dogs in the Town of Deerfield to the greatest extent possible.

Section 3: Definitions.

1. As used in this article, unless otherwise expressly stated or unless the context or subject matter requires otherwise:

a. "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered, or any dog.

b. "Agriculture and Markets Law" means the Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter.

c. "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) A guide dog actually leading a blind 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.

d. "Clerk" means the Deerfield Town Clerk.

e. "Dog" means any member of the species *canis familiaris*.

f. "Dog Control Officer" means any individual appointed by the town to assist in the enforcement of this chapter or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the town to assist in the enforcement of this chapter.

g. "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 during the period such dog is being trained or bred for such purpose.

h. "Harbor" means to provide food or shelter to any dog.

i. "Identification tag" means a tag issued by the Town of Deerfield which sets forth an identification number, together with the name of the Town, the State of New York, contact information, including telephone number, for the Town and such other information as the Town of Deerfield deems appropriate.

j. "Identified dog" means any dog carrying an identification tag as provided in Section 5 of this Local Law.

k. "Owner" means any person who harbors or keeps any dog.

l. "Owner of record" means the person in whose name any dog was last licensed pursuant to Article 7 of the Agriculture and Markets Law, except that if any license is issued on application of a person under eighteen 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 section 6 of this Local Law, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

m. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

n. "Police work dog" means 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.

o. "Recognized registry association" means any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the New York State Commissioner of Agriculture and Markets.

p. "War dog" means any dog which has been honorably discharged from the United States armed services.

q. "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 New York State during the period such dog is being trained or bred for such purpose.

r. "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.

s. "Person with a disability" means any person with a disability as that term is defined in Section 292(21) of the New York Executive Law.

t. "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the department; provided, however, that such services provided by said dog shall be performed without charge or fee.

u. "Therapy dog" means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, 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 during the period such dog is being trained or bred for such purpose.

v. "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, explosive, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

2. Unless expressly set forth above, the terms, words and phrases used in this chapter shall have the same meaning as such terms, words and phrases are defined in Article 7 of the Agriculture and Markets Law, including those definitions set forth in Section 108 thereof, which are incorporated by reference herein.

Section 4. Consistency with Other Laws.

This chapter shall be read in conjunction with all other applicable state and local laws, including specifically Article 7 of the Agriculture and Markets Law.

Section 5. Prohibited Acts.

It shall be unlawful for any owner of or any person harboring a dog in the Town of Deerfield to fail to control or confine such so that such dog is able to:

1. Bite, jump upon or otherwise harass any person, except a person:
 - (a) Trespassing upon the premises of such owner or harborer.
 - (b) Attacking or molesting the person of the owner or harborer of such dog.
 - (c) Who provokes a dog by teasing, torturing, cruelty beating, injuring, maiming or mutilating said dog.
2. Cause damage or destruction to the property of others.
3. Kill, injure or harass domestic animals.
4. Cause noise which shall annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensibilities. Noise disturbance for more than 15 minutes at any time of the day or night by repeated barking, whining, howling or other sounds which can be heard beyond the boundary of the owner's property shall be deemed prima facie evidence of violation of this action. Such noise disturbance does not apply when such noise disturbance occurs within the confines of the residence.
5. Habitually commit a nuisance upon the premises of anyone other than the owner or harborer of such dog.
6. Be without a license and wearing a tag, as provided for in the Agriculture and Markets Law of the State of New York.

7. Run at large without a leash, such as a chain, cord, strong rope or other material of sufficient strength to restrain the dog from harassing any person or domestic animal. Examples include but are not limited to (a) running at large in heat; (b) running, injuring or killing deer; (c) habitually chasing motor vehicles, motorcycles, bicycles or other conveyances.

Section 6. Enforcement.

1. This local law shall be enforced by any dog control officer in the employ or under contract with Town of Deerfield, a police officer and/or any peace officer when acting pursuant to their special duties.

2. Any dog control officer, peace officer or police officer observing a violation of this local law in their presence shall issue and service an appearance ticket for such violation.

Section 7. Complaint.

Any person, who observes a dog in violation of any acts prohibited by this Local Law, may make a signed complaint with the authorized Dog Control Officer and/or Town Justice pursuant to the applicable provisions of the Article 7 of the Agriculture and Markets Law. The complaint must specify the objectionable conduct of the dog, the date thereof, the damage caused or the acts constituting violation of this law, and including the place or places where such conduct occurred and the name and residence, if known, of the owner or other person harboring such dog.

Section 8. Licensing of dogs required; rabies vaccination required.

1. (a) 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 which is under the age of four months and which is not at large, or that is residing in a pound or shelter maintained by or under contract or agreement with the state or any county, city, town or village, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective association. Except as otherwise provided in this Section, a license shall be issued or renewed for a period of a least one year, provided, that no 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.

All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided in subdivision two of this section, a license shall be issued or renewed by a period of one year from the date of this statement.

2. In the case of a dog being redeemed or a dog being adopted from a shelter or pound established, maintained or contracted for, pursuant to New York Agriculture and Markets Law Section 114, such application may be made to the manager of such facility, provided such manager has been authorized by the Town by resolution to accept such application. Such authorization shall be requested by the governing body of the pound or shelter and the granting or denial of such authorization shall be in the discretion of the Town in which the prospective owner resides.

(b) Application for a dog license shall be made to the Deerfield Town Clerk.

(c) The application shall state the sex, actual or approximate age, breed, color, and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner.

(d) The application shall be accompanied by the license fee prescribed by Section 9 of this Local Law and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision two of this section. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the Town Clerk. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in Section Section 9 hereof.

(e) Upon validation by the clerk, the application shall become a license for

the dog described therein.

(f) The Clerk shall provide a copy of the license to the owner and retain a record of the license.

(g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

3. The Clerk, at the time of issuing any license, 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 another reason, the life of the dog or dogs would be endangered by the administration of vaccine. The clerk, dog control officer or authorized pound or shelter manager shall make or cause to be made from such statement a record of such information and shall file such record with a copy of the license.

Section 9. Annual Fees for Licensing Dogs.

1. For each spayed or neutered dog: Seven dollars (\$7.00), which includes the assessment of a statutory One dollar (\$1.00) surcharge for the purpose of carrying out animal population control.

2. For each unspayed or unneutered dog: Fifteen dollars (\$15.00), which includes the assessment of a statutory Three dollar (\$3.00) surcharge for the purpose of carrying out animal population control.

3. Replacement ID Tags: Three dollars (\$3.00).

4. Enumeration fee: When the Town Board determines the need for a dog enumeration, a fee of Twenty-Five dollars (\$25.00) shall be assessed, in addition to the dog license fees, to all dogs found to be unlicensed or not renewed at the time the enumeration is conducted.

5. For each Purebred License: 1 -10 dogs - Thirty-five dollars (\$35.00) plus six dollars (\$6.00) per dog; 11-25 dogs - Seventy-five dollars (\$75.00) plus six dollars (\$6.00) per dog; 26 or more dogs - One hundred fifty dollars (\$150.00) plus six dollars (\$6.00) per dog, which individual assessment includes a statutory surcharge of three dollars (\$3.00) for the purpose of carrying out animal control.

6. Service Dogs: Service dogs, including any guide dog, service dog, hearing

dog or detection dog shall be licensed but shall be exempt from a dog license fee; the dog owner shall provide written proof of the dog's status to be exempt from such fees.

7. The fees set forth herein shall be reviewed by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.

Section 10. Identification of Dogs.

1. Each dog licensed pursuant to this Local Law shall be assigned, at the time the dog is first licensed, a Town of Deerfield identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times.

2. 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.

Section 11. Change of Ownership: Lost or Stolen Dog.

1. In the event of a change in the ownership of any dog which has been licensed pursuant to this Local Law 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 a written report of such change. Such owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.

2. If any dog which has been licensed pursuant to this Local Law 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 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 article committed after such report is filed.

3. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of licensure or upon the time of such renewal.

Section 12. Seizure of Dogs; Redemption Periods; Impoundment Fees;

1. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer shall seize:

- (a) any dog which is not identified and which is not on the owner's premises;
- (b) any dog which is not licensed, whether on or off the owner's premises;
- (c) any licensed dog which is not in the control of its owner or custodian

or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is a "dangerous dog" as defined by the Agriculture and Markets Law; and

(d) any dog which poses an immediate threat to the public safety. Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision two of section one hundred twenty-three of the New York Agriculture and Markets Law.

2. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer may seize any dog in violation of this local law.

3. Each dog which is not identified, whether or not licensed, shall be held for a period of five 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 Local Law and further provided that the owner pays the following impoundment fees:

- (a) not less than ten dollars (\$10.00) for the first impoundment of any dog owned by that person;
- (b) not less than twenty dollars (20.00) for the first twenty-four hours or part thereof and three dollars (\$3.00) for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or
- (c) not less than thirty dollars (\$30.00) for the first twenty-four hours or part thereof and three dollars (\$3.00) for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

4. Procedures for Notice and Redemption of identified dogs shall be as provided in Section 117 of the New York Agriculture and Markets Law.

Section 13. Violations.

1. It shall be a violation, punishable as provided in subdivision two of this section, for:

- (a) any owner to fail to license any dog;
- (b) any owner to fail to have any dog identified as required by this

Local Law;

(c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag;

(d) any person to furnish any false or misleading information on any form required to be filed with the Town Clerk pursuant to the provisions of this Local Law.

(e) any owner of a dog to fail to notify the Town Clerk of any change or ownership or address as required by Section 11 hereof.

(f) Any owner who fails to control or confine a dog such that they are able to commit a prohibited act as defined by Section Section 5.

2. It shall be the duty of the dog control officer to bring an action against any person who has committed any violation set forth in subdivision one of this section. The Town of Deerfield may elect either to prosecute such action as a violation under a penal law or to commence an action to recover a civil penalty.

3. A violation of this section shall be punishable, subject to such an election, either:

(a) where prosecuted pursuant to the penal law, by a fine of not less than twenty-five dollars (\$25.00), except that (i) where the person was found to have violated this section or Article 7 of the New York Agriculture and Markets Law within the preceding five (5) years, the fine may not be less than fifty dollars (\$50.00), and (ii) where the person was found to have committed two or more such violations within the preceding five (5) years, it shall be punishable by a fine of not less than the one hundred dollars (\$100.00) or imprisonment for not more than fifteen (15) days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty-five dollars (\$25.00), except that (i) when the person was found to have violated Article 7 of the New York Agriculture and Markets Law within the preceding five (5) years, the civil penalty may be not less than fifty dollars (\$50.00), and (ii) where the person was found to have committed two or more such violations within the preceding five (5) years, the civil penalty may be not less than one hundred dollars (\$100.00).

Section 14. Separability.

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

Section 15. Repealer.

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Deerfield and they shall be, upon the effectiveness of this Local Law, null and void.

SECTION III:

This Local Law shall be effective as of January 1, 2011 after its filing in the office of the Secretary of State.