LOCAL LAW

INTRODUCTION NO. 2 OF 2008

OF THE TOWN OF VILLENOVA

Print No. 1

A local law relating to the control, confining, and leashing of dogs in the Town of Villenova.

Be it enacted by the Town Board of the Town of Villenova as follows:

Section 1. Purpose

The Town Board of the Town of Villenova (the "Town") 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 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 section 124 of article 7 of the Agriculture and Markets Law of the State of New York.

Section 3. Title

The title of this law shall be, "Dog Control Local Law of the Town of Villenova."

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. The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Local Law, as amended by this Local Law, and as amended thereafter.

b. Confined. That such animal is securely confined or restrained and kept on the owner's premises, whether 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 or 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.

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

d. Dog Control Officer. Any person authorized by the Chautauqua County Legislature or the Town Board of the Town from time to time to enforce the provisions of this Local Law or the provisions of the Agriculture and Markets Law.

e. Owner. The party purchasing the license, unless the dog is or has been lost, and such loss reported to the dog warden and reasonable search has been made. If an animal is not licensed, the term of "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 animal 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 the filing of any complaint charging a violation of this Local Law shall be held and deemed to be the owner of such dog for the purpose of the local law. In the event any dog found to be in violation of this chapter shall be owned by a minor, 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 and violation of this Local Law.

f. Recreational Areas. Recreational areas shall mean any real property owned by the Town which is used for recreational purposes by the public including, but not limited to, parks or playgrounds.

g. Run at large. Run at large shall mean to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

h. School Premises. Any real property situate within the Town which is used for educational purposes or purposes incidental thereto.

i. Town. Shall designate the area within the corporate limits of the Town of Villenova.

j. Harbor. To provide food or shelter to any dog.

k. "Dangerous dog" means any dog which (1) without justification attacks a person, companion animal as defined in subdivision five of section three hundred fifty of the Agriculture and Markets Law, farm animal as defined in subdivision four of section three hundred fifty of this chapter or domestic animal as defined in subdivision seven of Section 108 of the Agriculture and Markets Law and causes physical injury or death, or (ii) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

"Dangerous dog" does not include a police work dog, as defined in subdivision eighteen Section 108 of the Agriculture and Markets Law, which acts in the manner described in this paragraph while such police work dog is being used to assist one or more law enforcement officers in the performance of their official duties.

Section 5. Restrictions

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

a. Run at large unless the dog: (a) is accompanied by its owner or a responsible person able to control it by a command, or (b) is restrained by an adequate leash, or (c) behaves in a manner such that a reasonable person would not believe the dog to be a dangerous dog as defined in section 4(k) of this local law, or as defined in subdivision (24) of section 108 of the Agriculture and Markets Law. For the purpose of this Local Law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.

b. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the 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 not belonging to the owner of such dog.

d. 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.

e. Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harborer of said dog.

f. Create a nuisance by defecating, urinating or digging on public property or private property of said owner.

g. If a female dog, be off the owner's premises when in heat.

h. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless said dog: (a) is accompanied by its owner or a responsible person able to control it by a command, or (b) is restrained by an adequate leash, or (c) behaves in a manner such that a reasonable person would not believe the dog to be a dangerous dog as defined in section 4(k) of this local law, or as defined in subdivision (24) of section 108 of the Agriculture and Markets Law. For the purpose of this Local Law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.

i. Behave as a dangerous dog as defined in section 4(k) of this local law, or as defined in subdivision (24) of section 108 of the Agriculture and Markets Law. This applies in all circumstances, whether or not the dog is on the owner's property, or other private property, or is running at large, or is accompanied by its owner or a responsible person able to control it by a command, or is restrained by an adequate leash.

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 harborer of such dog that he/she has failed to properly confine, leash or control his/her dog.

Section 6. Enforcement

This Local Law shall be enforced by any dog control officer, Sheriff, State Police, or peace officer when acting pursuant to his/her special duties.

Section 7. Seizure, Impoundment, Redemption and Adoption

a. Any dog found in violation of the provisions of section 5 of this Local Law may be seized pursuant to the provisions of section 118 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 section 118 of the Agriculture and Markets Law.

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 in section 118 of said article.

d. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (c) of this section whether or not such owner chooses to redeem his/her dog.

e. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of section 118 of the Agriculture and Markets Law.

f. No action shall be maintained against the Town, any dog control officer or peace officer when acting pursuant to his/her special duties, or any other agent or officer of the Town or person under contract to said 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 provisions of this Local Law or the Agriculture and Markets Law.

Section 8. Appearance Ticket

Any dog control officer, peace officer when acting pursuant to his/her special duties, or police officer in the employ of or under contract the Town observing a violation of this local law in his/her presence shall issue and serve an appearance ticket for such violation.

Section 9. Complaint

a. Any person who observes a dog in violation of this Local Law may file a complaint under oath with a Town Justice specifying the nature of this violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog.

b. Upon receipt by the Town Justice of any such complaint, he/she may summon the alleged owner to appear in person before him/her for a hearing, at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he/she may order:

1. The dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.

2. The dog to be confined to the premises of the owner.

3. Such other remedy as may be warranted by the circumstances in such case.

c. A violation of any order issued by a Town Justice under the provisions of this Section 8 shall be an offense punishable, upon conviction thereof, as provided in section 9 of this Local Law.

Section 10. Penalties

A conviction of a violation of this Local Law shall be deemed an offense and punishable by a fine not exceeding twenty-five ($25) dollars for the first offense, and fifty ($50) dollars for each offense thereafter.

Section 11. 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 12. Repealer

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

Section 13. Effective Date

This Local Law shall take effect immediately.