

LOCAL LAW

Town of Andover

Local Law No. 2 for the year 2010

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

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

SECTION 1: Purpose: The Town Board of the Town of Andover 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. This Local Law will amend and replace the Local Law No. 1 of 1995.

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 Andover.

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

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

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

SECTION 5: Restrictions: It shall be unlawful for any owner of any dog in the Town of Andover to permit or allow such dog to:

(a) Run at large or be at large unless the dog is restrained by an adequate leash, not exceeding eight (8) feet in length or accompanied by its owner able to control it by command, and which remains under full control of such owner. For the purpose of this Local Law, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.

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

(e) Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles 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.

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

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 harbinger 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 6: Licensing of Dogs:

(a) All dogs in the Town of Andover 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.

(b) 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.

(c) The fee for a spayed or neutered dog shall be \$8.50, which includes the assessment of the surcharge for the purpose of carrying out animal population control; and the fee for an unspayed or unneutered dog shall be \$16.50, which includes the assessment of the surcharge for the purpose of carrying out animal population control, with such fees being reviewed by the Town Board periodically and which may be changed by a resolution of the Town Board, if deemed necessary.

(d) When the Town Board determines the need for a dog enumeration, a fee of \$5.00 will be assessed to all dogs found unlicensed or renewed at the time the enumeration is conducted.

(e) The Town of Andover will **not** be issuing purebred or kennel licenses. All dogs will be licensed as per the fee system stated above.

(f) The Town of Andover will not require a licensing fee to be paid for any guide dog, service dog, hearing dog or detection dog, upon presentation to the clerk of proper documentation, endorsement or certification. A license must still be applied for, only the licensing fee is waived. Any penalties for failure to license shall still apply.

(g) The Town of Andover does not allow the licensing of dogs by a shelter. The shelter **MUST** send the adoptive dog owners to the Town Clerk of the Town in which the dog will be harbored for licensing or to the Town Clerk of the Town of Andover where the shelter is located for the purchase of the license for adoption purposes.

(h) All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be no refund of fees.

(i) All fees will be used in funding the administration of the Dog Control Law of the Town of Andover.

SECTION 7: 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 8: Seizure of Dogs:

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

1. Any unlicensed dog whether on or off the owner's premises;
2. Any dog found in violation of paragraphs (a) through (h) of section 5 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 9.: Redemption of Seized Dogs and Redemption Fees:

(a) Every dog seized in accordance with section 8 above shall be properly fed and cared for at the expense of the Town of Andover, 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.

(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 Andover the redemption fee as provided below:

1. \$20.00 for the first 24 hours of the first impoundment and \$5.00 for each additional 24 hour period, or part thereof;

2. \$30.00 for the first 24 hours of the second impoundment within one year of the first impoundment, and \$5.00 for each additional 24 hour period, or part thereof;

3. \$40.00 for the first 24 hours of the third and all subsequent impoundments within one year, and \$5.00 for each additional 24 hour period, or part 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. 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, the new owner must pay the Town Clerk of the Town of Andover the redemption fees, if the original owner is not known.

(g) No action shall be maintained against the Town of Andover, any designated Dog Control Officer or any other authorized agent of the Town of Andover, 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 10.: 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 11.: 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 \$50.00 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 \$50.00 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 12.: 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 13.: This Local Law will amend and replace Local Law No. 1 of 1995.

SECTION 14.: 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.2 of 2010 of the Town of Andover was duly passed by the Town Board on the 10th day of November, 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)

Debra K. Padden
Debra K. Padden, Town Clerk
Town of Andover
Dated: November 10, 2010

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, Town Attorney
Town of Andover
Dated: _____