

Town of Pembroke

Dog Control

LOCAL LAW # 3 of 2018 – Dog Control

Section 1. TITLE

The title of this ordinance shall be "Dog Control Law of the Town of Pembroke".

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 together with any future modifications thereof. All provisions of said Section 124 of Article 7 are applicable and incorporated herein except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply, and enforcement of this Local Law is intended by application of the Penal Law.

Section 3. PURPOSE

The Town of Pembroke, New York finds that the running at large and other uncontrolled behavior of 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, property, wildlife and of dogs by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

Section 4. DEFINITION OF TERMS

For the purpose of this Local Law, the terms as hereinafter used are defined as follows:

Agriculture and Markets Law - The Agriculture and Markets Law of the State of New York in effect during the life of this Local Law. The Agriculture and Markets Law is abbreviated as Agr. & M.L.

All terms defined in Section 108 of the Agr. & M.L. shall have the same meaning as used herein unless specifically modified.

Dog Control Officer - Any person authorized by the Town Board, County of State Legislature from time to time, directed or permitted to enforce the provisions of this Local Law or the provisions of the Agr. & M.L.

Animal Hospital - A facility operated by a veterinarian or certified animal care persons for the purpose of treating sick or injured animals.

Confined - A dog is securely confined or restrained when it is 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, it is securely confined in a crate, on a tether or in other container, or so restrained within an enclosed vehicle in a safe manner consistent with the dog's good health so that it cannot be expected to escape therefrom (see Agriculture & Markets Law Section 353 and 356 - Cruelty to Animals).

Dog - Dog shall mean male and female, licensed or unlicensed, members of the species *Canis Familiaris*.

Dog Owner

- A dog owner is the person, persons, firm, association or corporations who:
- Purchased the license for the dog and is the registered owner; or
- Professes ownership of the dog; or
- Has custody or control of the dog; or
- Harbors or is otherwise responsible for the dog; or
- Is the parent, guardian or head of household of any minor under 18 years of age who owns or harbors the dog; or
- Brings into or permits the dog to come into the Town.

For proof purposes, any person harboring, possessing or controlling a dog for a period of one week prior to the filing of any complaint charging a violation of this Local Law or Agr. & M.L., shall be held and deemed to be the owner of such dog for the purposes of this Local Law. Parents, guardians or heads of household, as mentioned above, shall be deemed to have custody and control of dogs owned or harbored by minors and shall be responsible for compliance with this Local Law and Agriculture & Markets Law in the Town.

Kennel - A kennel is a facility that constitutes a business for keeping dogs for hire, or the business of raising dogs for sale, as certified by the Town Clerk.

Purebred Breeder - A purebred breeder is a person, firm, association or corporation who raises dogs for show, competition or sale as certified by the Town Clerk.

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

Running at Large - The term "run at large" shall mean to permit dogs freedom to run in a public place or on private lands without the knowledge, consent and approval of the owner of such lands, or running on any public highway.

Town - The "Town" as used herein shall mean any designated area within the boundary lines of the Town of Pembroke.

Town Board - The "Town Board" as used herein shall mean the Town Board of the Town of Pembroke.

Town Clerk - The "Town Clerk" as used herein shall mean the Town Clerk of the Town of Pembroke.

Section 5. LICENSING

All dogs within the Town shall be identified, licensed and vaccinated in accordance with the requirements of Article 7 of the Agr. & M.L., particularly Section 109 thereof.

Section 6. LICENSING FEES AND THEIR DISPOSITION

As authorized by Section 110 of the Agr. & M.L., and as required for controlling dogs, the fees for licensing dogs in this Town are:

- A. Five dollars (\$5.00) for each spayed or neutered dog (\$4.00 Town, \$1.00 State);
- B. Thirteen dollars (\$13.00) for each unspayed or unneutered dog (\$10.00 Town, \$3.00 State);
- C. For all other licenses the same as provided in subdivision 2 and 3 of Section 110, Agr. & M.L.
- D. One Dollar (\$1.00) for Replacement of a dog license tag;

The fees identified in Subparagraphs (A) and (B) above (\$4.00 & \$10.00 respectively) are in addition to those required by Section 110 of the Agr. & M.L. and shall become the property of the Town. Said fees may be amended at the discretion of the Pembroke Town Board from time to time by Resolution.

The State amount presently is one dollar (\$1.00) and three dollars (\$3.00) for each spayed or neutered fee.

Section 7. CHANGE OF OWNERSHIP OR ADDRESS, LOST, STOLEN OR DEAD DOGS.

A. Change of Ownership or Address

In the event of a change in the ownership of any dog which has been assigned an official identification number or the address of the dog owner of record, the dog owner of record shall with 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 Agr. & M. L. Section 112.1 or this Local Law until such filing is made or until the dog is licensed in the name of the new owner.

B. Lost or Stolen Dog

The dog owner of any dog which has been assigned an official identification number and has been lost or stolen shall within ten (10) days of the discovery of such loss or theft first contact the Genesee County Animal Shelter and then file with the Town Clerk a written report of such loss or theft and shall comply with Section 112.2 Agr. & M.L. In the case of a loss or theft, the dog owner of record shall not be liable for any violation of this Local Law committed after such report is filed.

C. Dog's Death

The dog owner of record shall notify the Town Clerk of the dog's death either prior to renewal of license or upon the time of such renewal as set forth in Subdivision 1 of Section 109 Agr. & M.L. and shall otherwise comply with Section 112.3 Agr. & M.L. Failure to so notify the Town Clerk of the death of a dog as required herein shall constitute a violation of this Local Law and the dog owner of record shall be held liable.

Section 8. DOG CONTROL OFFICER

The Town Board will by special resolution maintain the appointment of a Town Dog Control Officer as required by Section 113 Agr. & M.L., setting compensation therein. Such Officer shall have authority as set forth in Section 113 Agr. & M.L. and shall be responsible for enforcing the Agr. & M.L. and this Local Law of the Town. The Town Dog Control Officer is hereby authorized to issue an appearance ticket pursuant to Section 150.20 of the Criminal Procedure Law, to serve a summons and to serve and execute any other order or process in the executing of the provisions of this Local Law as specified in Sections 113.3 and 122.2c Agr. & M.L. The Dog Control Officer shall maintain all reports required by Article 7 Agr. & M.L., specifically Subdivisions 4 and 5 of Section 113.

Section 9. LICENSING ENFORCEMENT

A. License Renewal -

The Town Clerk's Office shall periodically review the records to ascertain dog owners who have failed to renew dog licenses within the prescribed time period and shall initiate enforcement thereof by contacting or delivering a ten-day notice of delinquency to the dog owner of record and if the license is then not renewed within the ten-day period, initiate prosecution of such act as a violation under the Penal Law in accordance with Section 118 Agr. & M.L. and this Local Law.

B. Dog Census for Licensing Purposes -

The Town Clerk's Office will complete a Town dog census every three (3) years and dog owners discovered to be in violation of the Agr. & M. L. or this Local Law will be served or posted a ten-day notice of delinquency requesting the owner to come into compliance. Thereafter, should the dog owner fail to come into compliance within the ten-day period, the Dog Control Officer will initiate prosecution of such act as a violation under the Penal Law in accordance with Section 118 Agr. & M.L. and this Local Law. Completed Dog census reports will be kept on file with the Town Clerk.

Section 10. NIGHT QUARANTINE OF DOGS

The Town adopts the same night quarantine of dogs invoked by the Genesee County Legislature on April 9, 1980, in Resolution No. 89, which Resolution requires that all dogs within the County shall be securely confined by dog owners (see Section 10, Subsection B for exception) between sunset and one hour after sunrise. Violations of this quarantine shall be punishable in accordance with Agr. & M.L. and this Local Law and dogs may be seized or destroyed as authorized by Agr. & M.L., Section 123 (see attached copy of Genesee County Legislature Resolution No. 89 of 1980).

Section 11. RESTRICTIONS

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

- A. Violate the County night quarantine noted in Section 10 above;
- B. Run at large unless the dog is restrained by an adequate leash or unless It is accompanied by its owner or a responsible person able to control it by command, or on its owner's property. 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;
- C. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably or habitually disturb the comfort or repose of any persons other than the owner of such dog;
- D. Uproot, dig into, upset or otherwise damage any vegetables, lawn, flower, garden beds, garbage containers or other property not belonging to the owner of such dog;
- E. Destroy, kill, or damage any poultry, livestock, or domestic pets not belonging to the owner or protected wildlife.;
- F. 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 except when such person may be on the owner's private property without said owner's consent;
- G. Habitually chase, run alongside or bark at motor vehicles, cyclists and/or pedestrians while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog;
- H. Create a nuisance by defecating, urinating or digging on public or private property other than the property of the said owner;
- I. Allow a female dog to be off the owner's premises when in heat except when transporting such dog to a veterinarian's office or when involved in a formalized, controlled breeding program;
- J. Run at large on any school premises or recreational areas, or the sidewalks adjacent thereto.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local law shall be presumptive evidence against the dog owner that he/she has failed to properly confine, leash or control his/her dog.

Section 12. SEIZURE OF DOGS

A. Town, County and State Dog Control Officers and/or Police Officers may seize any dog found:

- (1) Not to be identified and not on the owner's property; or not to be licensed whether on the owner's property or not (see Agr. & M.L. 118); or
- (2) Any dog found running at large in violation of the above quarantine or restrictions.

B. To effect seizure, Officers may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog, and such dog shall be impounded and disposed of pursuant to Section 117 Agr. & M.L. Officers are not authorized, hereby, to enter a building in order to seize a dog without permission of the building owner. When permission is not given and probable cause exists to believe that a dog is in the building and is in violation of the Agr. & M.L. or this Local Law, then an Officer can proceed before a court of law to obtain a warrant to enter the building to seize the dog by application of the Criminal Procedure Law Article 690. The Town Dog Control Officer will maintain records of seized, impounded, forfeited and adopted dogs as required by Section 113 Agr. & M.L. and by the Genesee County Animal Shelter.

C. The seizure of any dog shall not relieve any owner from any violation provided for by the Agr. & M.L. and this Local Law.

D. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog seized pursuant to this Local Law on the part of the Town, County or State Dog Control Officers or Police Officers (see Agr. & M.L. Section 117.11).

Section 13. HOLDING PERIODS AND IMPOUNDMENT FEES

Following seizure of a dog pursuant to this Local Law, it shall be impounded pursuant to Section 117 of Agr. & M.L., and the holding period and fee will be as set forth in Section 117 Agr. & M.L. Impoundment fees shall be paid to the Town Clerk.

Section 14. DOG FORFEITURE, ADOPTION AND EUTHANIZATION

All dogs seized pursuant to this Local Law will be subject to forfeiture, adoption and euthanization asset forth in Section 117 Agr. & M.L., and the County Animal Shelter Rules and Regulations. The Town hereby encourages that all dogs adopted following seizure pursuant to this Local Law be spayed or neutered before or after release from impoundment as the County Animal Shelter might require (see Section 117.7 Agr. & M.L.).

Section 15. ENFORCEMENT

This local Law shall be enforced by any dog control officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Pembroke.

Section 16. VIOLATIONS

It shall be a violation, punishable as provided in Section 118 Agr. & M.L. for:

- A. Any dog owner to fail to license any dog;
- B. Any dog owner to fail to have any dog identified as required by Agr. & M.L. Section 111;
- C. Any dog owner to violate the night quarantine noted in Section 121 above;
- D. Any dog owner to knowingly affix any false or improper identification tag; or
- E. Any dog owner to violate any of the restrictions listed in this Local Law;

Upon a violation of this Local Law, the Town Dog Control Officer, County and State Dog Control Officers and/or Police Officers may proceed in accordance with Section 118 Agr. & M.L.

Fines and penalties for any violation of this Local Law will be in amounts set forth in Section 118.2 Agr. & M.L.

Violations of this Local Law shall be prosecuted pursuant to the Penal Law (see Section 118.2a Agr. & M.L.).

The Town Dog Control Officer may serve appearance tickets personally upon violating dog owners as required by law.

Section 17. EXEMPT DOGS

Dogs are exempt from Local Fees for the following reasons - Guide Dog, Hearing Dog, Service Dog, Working Search Dog, War Dog, Detection Dog, Police Work Dog, and Therapy Dog as long as they provide the Town Clerk's Office with a Certificate of Training/Testing. Proof of Training/Testing include Honorable Discharge papers for a War Dog, Training Certificate for Guide, Hearing, Service, Detection, Working Search and Therapy Dog or a third party verification must be provided by a licensed professional. A DL-122 Exempt Dog Training/Certification Affidavit must be filed in the Town Clerks Office.

Section 18. DANGEROUS DOGS

Dogs believed to be dangerous to human beings, domesticated or protected animals will be proceeded against pursuant to Section 123 Agr. & M.L

Section 19. DISPOSITION OF FINES PENALTIES AND/OR BAIL FORFEITURES

All money collected by the Town Court as a fine, penalty and/or bail forfeiture pursuant to Section 119 of Agr. & M.L. shall become the property of the Town.

Section 20. COMPLAINTS

A. Any person who observed a dog in violation of this Local Law may file a complaint with either the Town Clerk, Town Dog Control Officer, County or State Dog Control Officers and/or Police Officers, specifying the nature of the violation, the date thereof, a description of the dog and the name and address, if known, of the owner of the dog.

B. Upon receipt by the Town Clerk, Town Dog Control Officer, County or State Dog Control Officers and/or Police Officers, of any such complaint, he/she may investigate said complaint or he/she may summon the alleged owner to appear in person before the Town Justice 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:

Section 21. APPEARANCE TICKET

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

Section 22. 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 23. REPEALER

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

Section 24. EFFECTIVE DATE

This local law shall become effective upon the filing with the New York State Department of State.