

**Town of New Scotland  
Local Law 2 of the year 2019**

A Local Law amending the Dog Control Law of the Town of New Scotland relating to the control, confining and leashing of dogs.

Be it enacted by the Town Board of the Town of New Scotland as follows:

**SECTION I. PURPOSE**

The Town Board of the Town of New Scotland finds that the running at large and other uncontrolled behavior of dogs have caused residents to be concerned regarding physical harm to persons and/or their pets. The Board finds that dogs running at large also has resulted in complaints regarding dog owners who have not picked up after their dogs on neighbor's property and at Town parks. The purpose of this local law is to protect the health, safety and well-being of persons, their pets, and property by imposing restrictions on the keeping and running at large of dogs within the town.

**SECTION II. TITLE**

The title of this law shall be "Dog Control Law of the Town of New Scotland."

**SECTION III. DEFINITION OF TERMS**

As used in this local law, the following words shall have the following respective meanings:

(a) "Agriculture and Markets Law" means the Agriculture and Markets Law of the State of New York;

(b) "Dog" means members of the species *canis familiaris*;

(c) "Owner" means a person entitled to claim lawful custody and possession of a dog. The owner is the person responsible for purchasing a license for such dog unless the dog is or has been lost, and such loss was promptly reported to the dog warden and a reasonable search has been made. If a dog is not licensed, the term owner shall designate and cover any person or persons who 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 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 this local law. In the event the owner of any dog is under eighteen years of age and found to be in violation

of this chapter, the head of the household in which said minor resides shall be deemed to have custody and possession of said dog and be in violation of this local law.

(d) “Public Property” means (i) public streets and sidewalks located in the Town; or (ii) any real property owned by, or under the jurisdiction and control of, the Town, which is used for recreational purposes by the public, including, but not limited to, parks or playgrounds; and (iii) sections of the Albany County Rail Trail within the Town.

(e) “Run at large” means a dog not restrained by a leash (or enclosure) located (i) on public property, or (ii) on private lands not owned by the owner of the dog in question, without the consent and approval of the owner of such lands.

(f) “Town” means the Town of New Scotland, New York.

(g) “Dangerous Dog” means any dog, which when unprovoked, approaches a person in a vicious or terrorizing manner in apparent attitude of attack upon the streets, sidewalks, or private property other than the dog owner’s property, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked which causes injury or otherwise endangers the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting.

(h) “Enclosure” means: (i) an electronic, “invisible” dog fence and the dog within the confines of the electric fence is wearing a shock collar; or (ii) a fence structure of at least four (4’) feet in height, forming an enclosed structure suitable to prevent the entry of young children, and suitable to confine a dog. Such fence structure shall be securely enclosed, locked and designed with secure sides, and shall be designed to prevent the animal from escaping from the enclosure.

#### **SECTION IV. RESTRICTIONS AND PROHIBITIONS**

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

(a) To be present on public property (including town parks), including streets and sidewalks, (i) unless the dog is restrained by a leash (or lead) or (ii) unless expressly permitted by this law;

(b) To be present on private property unless: (i) the dog is restrained by a leash (or lead); or (ii) the property is owned by the owner of the licensed dog; or (iii) the owner of the private property has granted permission for the dog to be off-leash;

(c) To be within ten (10’) feet of a public playground containing playground equipment;

- (d) To be present at any special event or festival on town-owned property;
- (e) To defecate or leave dog waste on public property or in a Town park;
- (g) To engage in aggressive behavior (e.g., growling, loud barking, lunging at other dogs or people);
- (h) To 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;
- (i) To uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner thereof;
- (j) To habitually chase, run alongside of, or bark at motor vehicles, motorcycles, joggers, runners, or bicycles while on a public street or highway;
- (k) To create a nuisance by defecating on private property without the consent or approval of the owner of such property;
- (l) To have a female dog in heat off the owner's premises unrestrained by a leash;
- (m) To harbor an unlicensed dog pursuant to the New York State Agriculture and Markets Law;
- (n) To harbor or maintain any dog which is found to be a dangerous dog, except in accordance with section 121 of the Agriculture and Markets Law.

**SECTION V. EXEMPTIONS**

1. This local law does not apply to dogs which are:
  - (a) part of an official performance; or
  - (b) police or government agency dogs; or
  - (c) hunting in the company of a licensed hunter on private property.
2. The requirement that dogs must be on a leash on public streets shall not apply when the owner of the dog owns the contiguous land on both sides of the public street, the dog is crossing the street, and the property is located in a Residential Agricultural (RA) or Residential Forestry (RF) zoning district.

**SECTION VI. SEIZURE OF DOGS AND APPEARANCE TICKETS**

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 an enclosure if there is probable cause to believe the dog is a dangerous dog;
- (d) any dog which poses an immediate threat to the public safety.

2. Dog control officers, peace officers, or police officers, having reasonable cause to believe that a person has violated this local law, or Article 7 of the Agriculture and Markets Law, shall issue and serve upon the dog owner, or the person in possession of the dog, an appearance ticket for such violation.

3. Any dog control officer, peace officer, or police officer who seizes a dog pursuant to this law, shall comply with the procedure set forth in Article 7 of the Agriculture and Markets Law.

4. Any dog control officer, peace officer, or police officer with knowledge of any person harboring four or more dogs, and not possessing a special use permit for a kennel, or kennel license, as allowed by the Town’s Zoning Law, shall report any such violation to the Code Enforcement Officer.

**SECTION VII. DANGEROUS DOGS**

1. A dog control officer or police officer who has probable cause to believe that a dog is dangerous shall proceed in the manner set forth in Section 121 of the Agriculture and Markets Law.

2. Notwithstanding the definition of a dangerous dog, no dog may be declared dangerous if any injury or damage is sustained by a person who, at the time such injury or damage was sustained: (a) was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog; or (b) was teasing, tormenting, abusing or assaulting the dog; or (c) was committing or attempting to commit a crime.

3. No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which, at the time of such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog.

4. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

## **SECTION VIII. DOG PARKS**

1. The Town Board reserves the right to designate, by resolution, certain Town-owned parks, or specific areas of any Town-owned park, (a) a “dog park;” or (b) a park in which dogs may be off-leash during designated hours and/or designated times of year.

2. In any: (a) area designated an official dog park; or (b) a park in which dogs are permitted off-leash at certain days/times, the Town shall adopt specific regulations for the control of dogs. The Town reserves the right to limit the use of dog parks for use by Town residents. Dog parks shall be designed to allow dogs to be off-leash on public property within the confines of the dog park.

3. Any dog park established by the Town (a) shall be clearly designated with appropriate signage; and (b) the rules and regulations shall be posted at the park.

4. The Town Clerk is hereby authorized to collect a fee, to be established by Resolution of the Town Board, as an annual charge to residents of the Town who wish to purchase a license or permit: (a) to use any dog park in the Town; or (b) to use a Town park that allows dogs to be off-leash at certain designated hours.

## **SECTION IX. COMPLAINT PROCESS**

Any person who observes a dog violating any provisions of this local law may file a signed complaint, under oath, with the Town Clerk or Dog Control Officer of the Town of New Scotland specifying the objectionable conduct of the dog; the date thereof; a description of the dog; and name and residence, if known, of the owner or other person harboring the dog. Upon receipt by the Town Clerk or Dog Warden (“Dog Control Officer”) of any complaint against the conduct of any particular dog, the Dog Control Officer authorized to act on behalf of the Town may summon the alleged owner or other person harboring the dog to appear in person before the local Justice court. If the summons is disregarded, the Justice: (a) may impose a fine or penalty, or (b) permit the filing of an information and issue a warrant for the arrest of such person.

## **SECTION X. PENALTIES / FINES**

(a) Any person who violates this local law or knowingly permits the violation of this local law, or any of the provisions hereof, shall be deemed to have committed an offense against this local law. The Town Board shall, from time to time, establish by resolution a schedule of penalties, fines, and charges for violations of this local law. Any person convicted of any such violation, after investigation and hearing, shall be punishable by a penalty of not less than (i) \$50.00 (FIFTY DOLLARS); and (ii) \$100 (ONE HUNDRED DOLLARS) for each subsequent violation of this local law.

(b) The daily boarding charge for any dog seized and boarded at any Town designated kennel by the Dog Control Officer under this local law or pursuant to the authority given the Dog Control Officer under the New York State Agriculture and Market Law, as the same may from time to time be amended by Town Board resolution, shall be assessed at the rate

established by Town Board resolution or the prevailing cost charged by such designated kennel, whichever is higher.

(c) The Dog Control Officer may issue appearance tickets pursuant to the Criminal Procedure Law to any person who violates this local law or who knowingly permits the violation of this local law or any of the provisions thereof.

(d) If a person charged with a violation of this law admits to any violation as charged in the appearance ticket, he may, five (5) days prior to the return date set forth in the appearance ticket, complete an appropriate form authorized by this local law, enter a plea of guilty, and forward such form and appearance ticket to the office specified on such appearance ticket. If a schedule of penalties for violations has been established by the Town Board, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the violation charged must be timely submitted with such plea of guilty.

(e) Any person found in violation of this law is also subject to the fines and penalties provided under the Agriculture and Markets Law.

#### **SECTION XI. AUTHORITY**

This local law is enacted by the Town Board of the Town of New Scotland pursuant to: (a) the NY Agriculture and Markets Law; and (b) the authority to adopt local laws under Article IX of the New York State Constitution, Section 261 of the Town Law, and Section 10 of the Municipal Home Rule Law.

#### **SECTION XII. VALIDITY/SEVERANCE**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such invalid part or parts.

#### **SECTION XIII. REPEAL OF OTHER LAWS**

This local law shall supercede: (a) Local Law No. 2 of 2006, which is hereby repealed; and (b) except for Local Law No. 9 of 2010 (regarding licensing of dogs and impoundment fees), all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of New Scotland shall be, upon the effectiveness of this local law, null and void.

#### **SECTION XIV. EFFECTIVE DATE**

This local law shall take effect immediately, as provided by law, upon filing with the Secretary of State.



**5. (City local law concerning Charter revision proposed by petition.)**

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20 \_\_\_\_, in accordance with the applicable provisions of law.

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20 \_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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 paragraph 1, above.

\_\_\_\_\_  
New Scotland Town Clerk

(Seal)

Date: \_\_\_\_\_

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ALBANY

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.

Signature \_\_\_\_\_  
New Scotland Town Attorney

Date: \_\_\_\_\_