

**LOCAL LAW NO. 2 OF THE YEAR 2013
TO AMEND CHAPTER 72
ENTITLED "ANIMALS"
OF THE CODE OF THE TOWN OF HIGHLANDS
ARTICLE I. DOG CONTROL**

BE IT ENACTED by the Town Board of the Town of Highlands as follows:

SECTION 1 – TITLE

This Local Law shall be referred to as "A Local Law Amending and Restating Article I of Chapter 72 entitled 'Animals' of the Code of the Town of Highlands."

SECTION 2 - AMENDMENTS TO CHAPTER 72

Chapter 72 of the Code of the Town of Highlands is hereby amended by restating Article I entitled "Dog Control" to read in its entirety as follows:

"Article I. Dog Control

§ 72-1. Title.

This article shall be known as the "Dog Control Ordinance of the Town of Highlands" and shall apply to the entire Town of Highlands.

§ 72-2. Purpose.

The purpose of this article is to preserve the public peace and tranquility in the Town of Highlands and to adopt and enforce certain regulations and restrictions on the activities of dogs and owners of dogs for the preservation and protection of the property and the persons and inhabitants of the Town of Highlands.

§ 72-3. Definitions.

As used in this article, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

ADOPT

The delivery to any natural person, 18 years of age or older, for the purpose of harboring a dog, seized or surrendered, from the Town's animal shelter.

DOG CONTROL OFFICER

A person or persons appointed by the Town of Highlands for the purposes of enforcing this article and Article 7 of the Agricultural and Markets Law of New York State.

AT LARGE

Any unleashed dog off the premises of the owner and on property open to the public or 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 "at large" if it is:

- A. A police work dog in use for police work; or
- B. Accompanied by its owner or other responsible person and actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

CLERK

The Town Clerk, or Deputy Town Clerk, of the Town of Highlands, where licenses are to be validated or issued.

COMPANION ANIMAL

Any dog or cat, and shall also mean any other domesticated animal normally maintained as a pet in or near the household of the owner or person who cares for such other domesticated animal.

DANGEROUS DOG

Includes any dog which has, pursuant to Article 7 of the New York State Agriculture and Markets Law, been found to be a “dangerous dog”, as such term is defined therein.

DETECTION DOG

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, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

DOG

Both male and female animals belonging to the species *canis familiaris* and shall include the singular and plural.

DOGHOUSE

An enclosed shelter that provides protection from the elements for a dog.

DOG SHELTER

An establishment for the confinement of dogs seized either under the provisions of this article or otherwise.

GUARD OR WATCH DOG

Any dog trained or primarily used for the purpose of protection of people, premises and/or business.

GUIDE DOG

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 of New York during the period such dog is being trained or bred.

HARBOR

To provide food, shelter or care, including veterinarian care, to any dog.

HEARING DOG

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 the State of New York during the period such dog is being trained or bred for such training.

IDENTIFICATION TAG

A tag which sets forth an identification number, as required by the provisions set forth in this article.

LEASHED

Restrained by a leash attached to a collar or harness of sufficient strength to restrain the dog and which shall be held by a person having the ability to control the dog.

OWNER

Any person having a right of property in, harboring or keeping a dog, including both a person in whose name a dog is licensed and a person who harbors a dog.

PERSON WITH DISABILITY

Any person with a disability as that term is defined in Subdivision 22 of § 292 of the New York State Executive Law.

POLICE WORK DOG

Any dog owned by any 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.

SERVICE DOG

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.

THE AG & MARKETS LAW

The New York State Agriculture and Markets Law.

THERAPY DOG

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 of New York during the period such dog is being trained or bred for such purpose.

TOWN

The Town of Highlands.

WAR DOG

Any dog which has been honorably discharged from the United States Armed Services.

WORKING SEARCH DOG

Any dog that is trained to aid in the search for missing persons and is actually used for such purposes; provided, however, that such services provided by said dog shall be performed without charge or fee.

§ 72-4. Violations.

It shall be a violation of this article for any owner of any dog to permit or allow such dog to:

A. Run at large in any public street, public park or public place unless restrained by a chain or leash not exceeding six feet in length and in charge and under the control of a responsible person, or to be present on private property other than the owner's premises, whether restrained by a chain or leash. Any dog found running at large off the owner's premises shall be seized by the Dog Control Officer. Proof that a dog has been in a public street, public park or public street unleashed will be prima facie evidence of a violation of this article by the person owning or harboring said dog. Any dog restrained by a chain or a leash not in control of a person shall be restrained by said leash or chain so as to not go nearer than 15 feet from any perimeter property line of the owner. Any dog not so restrained on the owner's premises or found off the owner's premises shall be subject to seizure by the Animal Control Officer.

B. Engage in loud howling, barking, whining or cause disturbing noises or to conduct itself in such a manner as to annoy any person other than the owner of the dog. In the event that the barking or disturbing noise continues for a period of 15 minutes in a continuous or substantially continuous manner, the owner of the dog or the individual harboring said dog shall be subject to a fine or penalty as hereinafter set forth.

C. Cause damage or destruction to property of a person other than the owner of such dog or commit a nuisance by defecating or urinating upon the premises of a person other than the owner of the dog.

D. Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation, whether restrained by a leash or otherwise or to put such a person in reasonable apprehension of bodily harm or injury.

E. Chase, run alongside of, bark at, or otherwise harass motor vehicles, motorcycles, bicycles or pedestrians.

F. Kill or injure any companion animal.

G. Be over six months of age and not vaccinated against the rabies virus.

H. Any other violation of this Chapter 72 of the Town Code.

I. Any violation of Article 7 of the Ag & Markets Law.

§ 72-4. Posting of premise: guard or watch dog. Persons or corporations owning a guard or watch dog must post on all gates and entrances to the property and post in other conspicuous places signs which specifically state that there is a guard or watch dog on the premises.

§ 72-5. Keeping of dogs; shelter; safety.

A. It shall be a violation of this article for any owner of any dog to permit or allow the premises, structures or enclosures in which such dog is kept to be unclean or unsanitary.

B. Dogs that are kept out-of-doors shall be provided with an enclosed shelter or doghouse constructed of wood and having three sides, a floor and a roof. The front of the doghouse shall be constructed with an opening of sufficient size as to allow the dog to enter but shall not be completely open. During the winter months, said doghouse shall be provided with hay or other material, to be placed inside said doghouse, which material shall be replaced as needed. A doghouse shall be provided for each dog that is at the dog owner's residence.

C. No puppy under the age of six months shall be kept outside during the winter months on a permanent basis.

D. No person shall breed or attempt to breed or aid or abet the breeding of any dog in any public place within the Town or any place within the Town not entirely enclosed and completely screened from observation within the enclosure. Any female dog that is in season (heat) shall not be left outside unattended unless said dog is kept in an enclosed kennel so as to prevent said dog from becoming loose and also to prevent any male dog from harassing said female dog while in season.

E. No dog or any other animal shall be left completely enclosed in a parked vehicle without adequate ventilation or in such a way as to subject the animal to temperatures sufficiently above the surrounding atmosphere which would affect the animal's health and welfare. If any such animal is deemed to be in distress, it may be removed from said vehicle to prevent further risk to its health.

F. No dog or any other animal shall be transported on any public thoroughfare in any external part of any automobile or truck unless such dog or animal is totally enclosed within such vehicle, within a secured container carried upon the vehicle or securely cross-tethered to such vehicle in such a way as to prevent falling out of or off such vehicle and to prevent injury to the animal. No dog or any animal shall be transported in the trunk of any vehicle.

§ 72-6. Dangerous dogs.

Any person owning a dog that has been found to be a dangerous dog under Article 7 of the Ag and Markets Laws shall adhere to the restrictions and conditions set forth in this section unless other restrictions and conditions are ordered by the Town court. Failure to adhere to these restrictions and conditions, or such differing restrictions and conditions ordered by the Town court, will result in said dog being seized whether on or off the

owner's property and humanely euthanized and buried by a local veterinarian at the owner's expense.

A. A dangerous dog, when outside of the owner's dwelling, shall be securely confined within an enclosed structure no smaller than 6 feet by 6 feet by 12 feet. Said structure will be enclosed on four sides and top. The floor area of said enclosure shall be concrete or other type of material so as to prevent the dog from escaping by digging out, etc. The door, gate or other means of entry or egress shall be provided with a lock or other device which cannot be opened by the dog. In addition to preventing the dog from escaping, the enclosure must prevent children or adults, other than owner of said dog, from gaining entry.

B. The premises in which the dangerous dog is confined or housed shall be posted (tagged) with a conspicuous notice(s) or sign(s) using the words "Beware of Dog" that warns the public of the nature of the dog which is confined. Where applicable, the sign shall be displayed on the front and rear of the property and at a side gate(s) or entrance(s). A similar sign should be posted or adjacent to the front door. The lettering of posted sign(s) should be at least two inches in height.

C. A dangerous dog, when outside the owner's dwelling or the enclosed structure provided for in this section, shall be led by a chain or leash not exceeding six feet in length and under the control of a responsible adult capable of controlling said dog.

D. A dangerous dog shall be muzzled when off the owner's property.

E. The owner of a dangerous dog shall enroll said dog in an obedience course. The dog must complete such course within 30 days of the court's order finding said dog to be dangerous. A certificate shall be presented to the Town of Highlands Dog Control Department upon completion of said obedience course.

F. The owner of a dangerous dog shall notify the Town of Highlands Dog Control Department immediately in the event that said dog escapes, attacks another animal and/or human, dies, is transferred to another owner or has a change of address.

G. A dangerous dog shall be spayed or neutered within 30 days of the court's order, and proof of the same must be presented to the Town of Highlands Dog Control Department.

H. Where the restrictions and conditions set forth in this section differ from those established in an order of the Town court, the restrictions and conditions set forth in such order shall control.

§ 72-7. Seizure and impoundment; redemption or adoption.

A. Any dog which shall be running at large in violation of subsection 72-4(A)(1) may be taken into seized and impounded and thereafter redeemed, adopted or destroyed in accordance with the procedure set forth in this section.

B. After any such seizure and impounding, the owner of such dog, if known, may be notified thereof. Such dog so seized and impounded shall be held for a period of no more than 10 days. The owner of said dog may redeem the dog by producing a license for such dog and by paying a redemption fee as established by resolution of the Town Board, and all other costs, including veterinarian fees, incurred by the Town for the seizure, impounding and harboring of such dog by the Town. Upon the seizure of an identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after the day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner.

C. If any dog impounded is not redeemed as provided in this section, the Town may have such dog humanely euthanized and buried by a local veterinarian at the owner's expense.

D. If an unidentified dog that has been seized and impounded is not redeemed by its owner after five days, said dog may be available for adoption by any responsible or proper person upon purchase of a dog license and payment of adoption fees as established by the Town Board and all other costs, including veterinarian fees, incurred by the Town for the seizure, impounding and harboring of such dog by the Town. If an identified dog is not redeemed by its owner after the period specified in subsection 72-7(B), said dog may be available for adoption by any responsible or proper person upon purchase of a dog license and payment of adoption fees.

E. For all dogs that are adopted, the owner must furnish proof from a veterinarian to the Dog Control Department that said dog will have been spayed or neutered within three months or by the sixth-month birthday, whichever comes first, following release and delivery. Failure to comply will result in said dog being seized by the Dog Control Department, and ownership will be forfeited and the dog will become the property of the Town to be either adopt or humanely euthanized and buried by a local veterinarian at the prior owner's expense.

F. The owner or prior owner of any dog humanely euthanized under any provision of this chapter shall not be entitled to compensation from the Town.

§ 72-8. Penalties for offenses.

Any person who violates this chapter or knowingly permits the violation of this chapter or any of its provisions or who shall molest, obstruct or interfere with the Dog Control Officer while engaged in the enforcement of this chapter shall be deemed to have committed an offense against this chapter. The Town may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty. Any person convicted of any such violation shall be liable to the following civil penalties or fines and/or terms of imprisonment:

A. Not less than \$50.00 nor more than \$150.00 and/or imprisonment for not more than 15 days for the first violation.

B. Not less than \$100.00 nor more than \$250.00 and/or imprisonment for not more than 15 days for a second violation within five years.

C. Not less than \$150.00 and/or imprisonment for not more than 15 days for the third and subsequent violations within five years.

For the purposes of this section, a person convicted of violating any provision of Article 7 of the Ag & Markets Law, shall be considered to have violated this chapter and shall be subject to the civil penalties or fines and/or terms of imprisonment set forth in this section.

§ 72-9. Assessment and levy of civil penalties, fines, fees and costs, liens.

All civil penalties and fines imposed, and all fees and costs, including redemption fees, boarding expenses, veterinarian fees, charges for humane euthanasia or burial, incurred by the Town, pursuant to this chapter, shall be listed in a notice(s) served on the owner and setting forth a deadline within which such listed charges must be paid by such owner. Said notice(s) shall further advise that, should the owner fail to make payment within the established deadline, said amount may be assessed and levied against the owner's premises, and the expense so assessed shall constitute a lien and charge on the premises on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner as a real property tax.

§ 72-10. Filing of complaints.

Any person who observes a dog in violation of this chapter may file a complaint under oath with the Town Dog Control Department specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this chapter and Article 7 of the Ag & Markets Law.

§72-11. Pleading by mail.

The provisions of section 170.10 of the New York State Criminal Procedure Law may be waived, to the extent hereinafter indicated, by a defendant charged with a violation of any provision of this chapter or the Ag & Markets Law, other than a dangerous dog complaint brought pursuant to Article 7 of the Ag & Markets Law, provided that such person shall submit to the local criminal court having jurisdiction, in person, by duly authorized agent, by first class mail or by registered or certified mail, return receipt requested, an application setting forth:

A. The nature of the charge;

B. The following information or instructions:

- (1) A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, you will be liable for a civil penalty;
- (2) The giving of the foregoing instructions by means of a statement printed in a noticeably distinct manner and in bold type in a size equal to at least twelve point type, upon a summons, ticket or form advising of the option to plea-by-mail issued to a person charged with any such offense shall constitute compliance with the requirements of this section; and
- (3) The foregoing provisions of this section may be waived as provided in this section;

C. That defendant waives arraignment in open court and the aid of counsel;

D. That he or she pleads guilty to the offense as charged;

E. That defendant elects and requests that the charge be disposed of and the civil penalty fixed by the court, pursuant to this section;

F. Any statement or explanation that the defendant may desire to make concerning the offense charged; and

G. That defendant makes all statements with respect to such application under penalty of perjury.

This application shall be in such form as the Town shall prescribe and a copy thereof may either be handed to the defendant by the Dog Control Officer charging him with such offense or mailed to such defendant thereafter. Thereupon the Town court may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided, however, that any imposition of civil penalty hereunder shall be deemed tentative until such civil penalty shall have been paid and discharged in full, prior to which time such court, in its discretion, may annul any proceedings hereunder, including such tentative imposition of civil penalty, and deny the application, in which event the charge shall be disposed of pursuant to the applicable provisions of law, as though no proceedings had been had under this section. If upon receipt of the aforesaid application the Town court shall deny the same, it shall thereupon inform the defendant of this fact, and that he is required to appear before the said court at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

§ 72-12. Appearance tickets.

A. Any Dog Control Officer employed by the Town observing a violation of this article in his or her presence or upon obtaining a written complaint under section 72-9 may in his or her discretion issue and serve upon such person an appearance ticket for such violation.

B. In case of violation of section 72-5 of the Town Code and/or section 118(1)(a), of the Ag & Markets Law, an order to remedy the violation will be served along with an appearance ticket. The owner of said animal will be given seven days in which to remedy the violation. An additional appearance ticket can be issued after this seven-day period if the violation continues, and additional appearance tickets can be issued each day until the violation is corrected. Each day's continued violation after an order to remedy thereof shall be served shall constitute and may be charged as a separate additional violation hereunder."

SECTION 3 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.