

TOWN OF WHITEHALL
WASHINGTON COUNTY
STATE OF NEW YORK
LOCAL LAW # 1, 2012
Dog Control Law

Local Law Relating to the Regulation of Dogs in the Town of Whitehall (Outside the Village of Whitehall), Washington County, New York. The purpose of this law is to provide for the licensing and identification of dogs, the control and protection of the dog population and to protect the health, safety and well-being of persons, property, domestic animals and deer from dog attack and damage within the Town of Whitehall by imposing restrictions and prohibitions on the keeping and running at large of dogs.

Local Law Filing

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Be it enacted by the Town Board of the Town of Whitehall, New York as follows:

ARTICLE 1

General Provisions

- Section 1. Title & Purpose.
- Section 2. Definitions.
- Section 3. Licensing of dogs required; rabies vaccination required.
- Section 4. Running at Large
- Section 5. Howling and Barking & Control of Dogs.
- Section 6. Cruel and Inhuman Treatment.
- Section 7. Complaints of Damage or Nuisance.
- Section 8. Complaints of Harassment or Injury.
- Section 9. Notice of Complaint; Summons.
- Section 10. Hearing.
- Section 11. Seizure of Dogs & Dangerous Dogs.
- Section 12. Redemption of Dogs; Disposal of Unredeemed Dogs.
- Section 13. Penalties for Offenses.
- Section 14. Seeing Eye Dog.
- Section 15. Licensing Fees.
- Section 16. Issuance of Appearance Tickets.

ARTICLE 2

Effective Date

- Section 1. Repeal of Inconsistent Local Laws or Ordinances.
- Section 2. Severability Clause.
- Section 3. Effective Date.

- Section 1. Title & Purpose.

This Article shall be known as the “Dog Ordinance of the Town of Whitehall” and may be referred to by that title.

Section 2. Definitions.

All definitions of Section 108 of the Agriculture and Markets Law shall apply to this Article. As used in this Article, the following terms shall also have the meanings indicated:

Owner: Includes any person, persons, association or corporation owning, harboring, in possession of or keeping a dog or dogs within the Town of Whitehall. Any person harboring a dog for a period of one (1) week prior to the filing of a complaint charging a violation of this local law shall be held and deemed an owner of such dog for the purpose of this local law.

Town Clerk: the clerk of the town where licenses are validated or issued pursuant to this law.

Dangerous Dog: any dog which (i) without justification attacks a person, companion animal, farm animal or domestic animal 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, while such police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

Dog: any member of the species canis familiaris.

Dog Control Officer: any individual appointed by a municipality to assist in the enforcement of this law.

Domestic Animal: any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer being raised under license from the department of environmental conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant, or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.

Euthanize: to bring about death by a humane method.

Guide dog: any dog that is trained to aid a person who is blind and is actually used for such purpose.

Harbor: to provide food or shelter to any dog.

Identification tag: tag issued by the licensing municipality which sets forth an identification number, together with the name of the municipality, the state of New York, contact number for the municipality.

Police Work Dog: A dog under the care and control of any law enforcement investigations and related work. The provisions of this chapter shall not apply to any police work dog.

Resident: A person who maintains a residence within the Town of Whitehall, County of Washington, State of New York.

Run at Large: Run at large shall mean to be on private or public lands without knowledge, consent and approval of the owner of such lands.

Service Dog: Any dog that is trained to aid a person with a disability and is actually used for this purpose, otherwise known as a “guide dog.”

Town of Whitehall: Shall designate the area within the corporate limits of the Town of Whitehall which lies outside the corporate limits of the Village of Whitehall.

Section 3. Licensing of dogs required; rabies vaccination required.

- A. All dogs kept, harbored or maintained in the Town of Whitehall shall be licensed with the town clerk if over the age of four (4) months of age, and all owners must comply with all pertinent laws and provisions incident to obtaining and the wearing of such identification tag by the dog. Each license issued by the town clerk pursuant to this local law, shall be valid for one year, and shall expire on the last day of the last month of the period for which it was issued. No license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. The town clerk shall issue a license to the dog owner. Any person applying for a dog license shall present a current rabies certificate or a statement from a veterinarian that such vaccination would endanger the dog’s life, in which case vaccination shall not be required, at the time of making an application for a license or for the renewal of an existing license. A spayed or neutered certificate will need to be submitted for the dog in order to be charged at the spayed or neutered license rate or a statement from a vet that such operation would endanger the life of the dog.
- B. No license shall be transferable. Upon the transfer of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
- C. Change of ownership, Lost or Stolen Dogs
Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for life of the dog.
In the event of a change in ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Town Clerk. If any dog, which has been assigned an official identification number, is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Town Clerk.
In the case of a dog’s death, the owner of record shall notify the Town Clerk either prior to renewal of license or upon the time of such renewal.
- D. Purebred Dog License Fee
The Town of Whitehall shall not issue purebred or kennel licenses.
- E. The Town does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town Clerk where the dog will be licensed.
- F. The Town Clerk shall assign a Town identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag, which shall be affixed to the collar of the dog at all times. This number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned. Furthermore no tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.

- G. All fees will be used in funding the administration of the Dog Control Law in the Town of Whitehall.

Section 4. Running at Large.

No dog, whether licensed or unlicensed, muzzled or not muzzled, shall be allowed to run at large in any street, sidewalk, lane or public place unless said dog is effectively restrained by a chain or leash, not exceeding eight (8) feet in length, affixed to the collar or harness or the dog, or in the alternative, unless said dog is in the immediate custody and control of the owner or a responsible person over the age of twelve (12) years of age. 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 owners.

Protection of deer & night quarantine – Whenever the governing body of any municipality shall determine that the deer population in the municipality or part thereof is suffering severe depredation due to dogs attacking, chasing or worrying deer, such governing body may by order require that all dogs in such municipality or part thereof shall be securely confined during the period of time designated in the order or, if no time is designated, until the order is revoked. (Section 120 of the Ag & Markets Law).

- a. Notice of such order shall be given by publication in a newspaper of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order. Such order shall be in full force and effect at the expiration of twenty-four hours following publication of such notice.
- b. If any dog is not confined as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize any dog. Any dog so seized shall be subject to the provisions of section 118 of the Ag & Markets Law.
- c. If any dog, which is not confined as required by order, shall attack, chase or worry any deer, any dog control officer, peace officer, acting pursuant to his special duties, or police officer upon witnessing the same, shall destroy, or seize and destroy, such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.
- d. If any dog shall kill or cripple any deer, the owner shall be subject to civil penalty in the amount of one hundred dollars for the first deer killed or crippled by the dog or by the pack of dogs, if any, of which the dog was a member, and in the amount of one hundred fifty dollars for each additional deer killed or crippled, to be recovered in an action brought by the commissioner of environmental conservation on behalf of the people of the State of New York.
- e. This section and any order issued pursuant thereto shall not apply to dogs in special dog training areas or shooting preserves enclosed and licensed pursuant to the provisions of the environmental conservation law, while such dogs are under the control of the owner or trainer.

Section 5. Howling & Barking & Control of Dogs.

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

- (a) Engage in habitual barking, howling, crying or whining, or to conduct itself in such a manner as to habitually annoy any person other than the owner or person(s) harboring such dog, or which disturbs the peace, generally, by loud noises at any time of the day or night.
- (b) Cause damage or destruction to the property of or commit a nuisance upon the premises of a person other than the owner or person(s) harboring such dog without the consent or approval of the owner of such premises.
- (c) Chase, jump on or at, or otherwise harass any person in such a manner as would reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- (d) Attack, chase or worry any domestic animal, as defined by Section 108 of the Agriculture and Markets Law.
- (e) Habitually chase 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 the property.
- (f) Be off the premises of the owner unless restrained by a leash to be held by a person of sufficient strength and ability to adequately restrain the dog. Such dog may be unleashed while off the owner's premises only on such occasions as when such dog is on the private premises of another with the knowledge, consent and approval of such person.
- (g) No dog, whether leashed or unleashed, shall be in any restaurant, grocery or commercial establishment which sells food or human consumption except for a service dog or police work dog.
- (h) No person who owns or harbors a dog shall permit the premises, structures or enclosures in which such dog is kept to be unclean or unsanitary on account of dog feces or otherwise.

Section 6. Cruel & Inhuman Treatment.

It shall be unlawful for any person to treat a dog in a cruel or inhuman manner.

Section 7. Complaints of Damage or Nuisance.

- A. Any person who observes a dog causing damage or destruction to property of a person other than its owner or committing a nuisance upon premises of a person other than its owner or running at large or otherwise violating the provisions of this local law may file a signed complaint, under oath, with the Justice Court of the Town of Whitehall, specifying the objectionable conduct of the dog and the name and residence, if known of the owner or other person harboring said dog.

Section 8. Complaints of Harassment or Injury.

Any person who is chased or otherwise harassed by any dog in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury or any person who witnesses a dog attacking, chasing or worrying any domestic animal, as defined in Section 108 of the Ag. & Markets Law, may file a signed complaint, under oath, with the Town Justice Court, stating the specific objectionable conduct of the dog, the date thereof, the place of occurrence, a description of the dog and the name and residence, if known, of the person harassed and the owner or

the other person harboring said dog; or, in the alternative, the person so harassed by a dog may file with the Town Justice Court an information charging a violation of this Article.

Section 9. Notice of Complaint; Summons.

Where a complaint has been filed or the information has been filed on dogs for bodily harm or injury, the Town Justice Court shall cause notice of such complaint, and the general nature thereof, to be served upon the alleged owner or other person claimed to be harboring said dog, and the Town Justice Court may summon the alleged owner or other person claiming to be harboring said dog to appear before the Town Justice Court. If the summons is disregarded, the Town Justice Court may permit the filing of any information and issue a warrant for the arrest of such person.

Section 10. Hearing.

Where a complaint has been filed or an information has been filed charging a violation of any of the provisions of this Article, the Town Justice shall hold a hearing thereon, and if satisfied, after inquiry into and investigation of the charge, that the dog's conduct was offensive and in violation of this Article, the Town Justice may order the owner or other person harboring the dog to confine the dog to the premises of the owner for a period of time in his discretion or impose the penalties set forth in Section 13 of this Article.

Section 11. Seizure of Dogs & Dangerous Dogs

Any dog found at large and not under effective restraint or in the immediate custody and control of the owner or a responsible person who is over the age of twelve (12) years of age, as required by Section 4 of this Article, may be seized by any duly appointed Dog Control Officer, peace officer or duly authorized officer or representative of the Town of Whitehall or the American Society for the Prevention of Cruelty to Animals and confined and impounded.

Dangerous Dogs-

1. In the event of a complaint of an attack upon a person or of an attack, chase or worrying of a domestic animal, the Court shall immediately determine if there is probable cause to believe the dog is a dangerous dog, and upon so finding, shall order the Dog Control Officer or law enforcement officer to immediately seize the dog pending a judicial hearing conducted in accordance with the provisions of the Agriculture and Markets Law.
2. If satisfied that said dog is a dangerous dog, the Court may order the Dog Control Officer or other law enforcement officer to take any action consistent with the provisions of the Agriculture and Markets Law including the destruction of the dog, or take any other action prescribed herein. In the event that any person is bitten or scratched by said dog, the Court shall order the dog be tested or quarantined for a period of 10 days. The rabies testing/quarantine shall be the owner's expense.
3. In the event that the Court does not order the dog destroyed and determines that said dog is a dangerous dog within the meaning of the Agriculture and Markets Law, the owner of the dog shall be required to:
 - a. Maintain liability insurance, with insurance must be specifically cover damage or injury to persons or property which may be caused by a dangerous dog;
 - b. Muzzle the dog when in public places; and
 - c. Post the property where the dog is located with a notice of "Dangerous Dog."

- d. Any dog so found at large not under effective restraint, which cannot be safely seized, may be destroyed by such Dog Control Officer, peace officer or other duly authorized officer.

Section 12. Redemption of Dogs; Disposal of Unredeemed Dogs

Redemption period for dogs to be 10 days after day of seizure. The day of seizure will be designated as day one. Each dog seized in accordance of this law shall be properly sheltered, fed and watered for the redemption period as hereinafter provided. If the owner is known, they will be notified by certified mail of where their dog is located and they may pick up the dog only after the dog has been licensed and has been identified pursuant to the provisions of this law. Furthermore that the owner pays the impoundment fees and all other fees to the Town Clerk.

A. Any dog impounded under the provisions of this Article shall be confined in accordance with the provisions of the Agriculture & Markets Law of the State of New York and may be redeemed by the owner thereof upon payment to the Town Clerk of the Town of Whitehall the sum of:

1. First Impoundment of any dog owned by that person; \$30.00 fee, plus cost of sheltering of \$18.00 per day, M – F (8 am-5pm) 5:01 pm – 7:59am additional \$10.00 fee
Weekends and Holidays are an additional \$15.00.
2. Second Impoundment of any dog owned by that person; \$50.00 fee, plus sheltering at \$18.00 a day.
3. Third and subsequent impoundment of any dog owned by that person; \$100.00 minimum - \$250.00 maximum plus cost of sheltering at \$18.00 per day.

NOTE: Impoundment fees are counted against the owner whether the dog or a different dog has been seized. One year must pass with no impoundments before any owner can again be charged with a First impoundment fee. Prior to a dog being redeemed, all dogs must be licensed pursuant to the provisions of Article 7 of the Agriculture and Markets Law.

- B. Any dog not so redeemed 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.
- C. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees to the Town of Whitehall.
- D. All impoundment fees, including all seizure and/or penalties levied or assessed by the Court shall be the property of the Town of Whitehall.

Section 13. Penalties for Offenses.

Any violations of the provisions of this local law shall be deemed a violation and shall be punishable subject to a fine:

- (a) Where prosecuted pursuant to the penal law or as an action to recover a civil penalty, by a fine of not less than
Fifty Dollars (\$50.00) for the first offense, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may not be less than One Hundred Dollars (\$100.00) for the second offense, and not less

than Two Hundred Dollars (\$200.00) for each offense thereafter and or imprisonment for not more than fifteen (15) days.

The Town of Whitehall, its employees or agents shall not be liable in damages or otherwise on account of the seizure, adoption or destruction of any dog pursuant to the terms of this law.

Section 14. Seeing Eye Dogs and Handicap Dogs.

This local law shall not apply to Seeing Eye dogs and those dogs trained and recognized as dogs that assist the handicapped during such times when such dogs are performing the functions for which they are trained.

Section 15. Licensing Fees.

(A) Authority to set Dog License Fees by Resolution of the Town Board

Pursuant to Municipal Home Rule Law, by the adoption of this local law, the Town of Whitehall, County of Washington, hereby authorizes the Town Board of the Town of Whitehall, County of Washington, to establish, by resolution, a schedule of dog license fees, enumeration fees, tag replacement fees, impoundment fees and penalties. Furthermore, after one month of expiration of license, the town clerk shall send a notice in the mail stating if license is not paid in thirty (30) days of such notice, an appearance ticket will be issued by the Dog Control Officer and further penalties shall apply to the dog owner for being in violation of this local law.

The current license fee schedule is as follows: \$8.00 for spayed/neutered dogs

\$16.00 for unsprayed/unneutered dogs

B. State Mandated Animal Population Control Surcharge

Each individual dog license for a spayed or neutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$1.00 payable at the time the dog license application is filed.

Each individual dog license for an unsprayed or unneutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$3.00 payable at the time the dog license application is filed.

C. Dog Enumeration Surcharge

Each dog found to be unlicensed during a dog enumeration conducted by the Town, shall be subject to a \$5.00 dog enumeration surcharge payable at the time of the application is filed to license said dog. Such additional fee shall be the property of the licensing municipality and shall be used to pay the expenses incurred by the municipality in conducting the enumeration.

D. Replacement Tag Fee

A replacement tag fee of \$3.00 shall be charged to offset the costs associated with the provision and replacement of identification tags.

E. Fee Exemptions

There shall be no fee for any license issued for the following:

- Guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police dog, therapy dog. Each dog license shall be conspicuously marked as such by the clerk.

(As defined in article 7 of the State Agriculture and Markets Law).

Section 16. Issuance of Appearance Tickets.

The Dog Control Officer or peace officer or duly authorized representative of the Town of Whitehall, having reasonable cause to believe that a violation of this local law has been committed in his or her presence or upon information and belief, shall issue and serve 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 execution of the provisions of this article. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this article may serve any process, including an appearance ticket, a uniform appearance ticket, related to any proceeding, whether criminal or civil in nature undertaking in accordance with the provisions of this article or any local law or ordinance promulgated pursuant thereto. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known. Every dog control officer shall file and maintain such records for not less than three years following the creation of such record, and shall make such reports available to the commissioner upon request.

Pounds and Shelters: Each town and city, and each village in which licenses are issued shall, and any other village and any county may, establish and maintain a pound or shelter for dogs. In lieu of or in addition to establishing and maintaining such pound or shelter, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for pound or shelter services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall establish or maintain, jointly or with one or more other municipalities, pound or shelter.

ARTICLE 2

Section 1. REPEAL OF INCONSISTENT LOCAL LAWS OR ORDINANCES:

This local law shall supersede all prior inconsistent local laws, ordinances, rules and regulations relative to the licensing of dogs within the Town. All prior inconsistent Local Laws, Ordinances, Rules and Regulations shall be, upon the effectiveness of this Local Law, null and void.

Section 2. SEVERABILITY CLAUSE

The provision of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. EFFECTIVE DATE:

This local law shall take effect immediately upon its filing with the Secretary of State.