

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Chester

Local Law No. 1 of 2012.

A LOCAL LAW REPEALING AND REPLACING LOCAL LAW NO. 1 OF 2010 PERTAINING TO ANIMAL CONTROL AND DOG LICENSING

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village

of Chester as follows:

SECTION 1. Authority – This Local Law is adopted pursuant to New York Municipal Home Rule Law and Agriculture and Markets Law.

SECTION 2. Repeal and Replacement of Local Law No. 1 of 2010 – Local Law No. 1 of 2010, which was adopted by the Chester Town Board on December 14, 2010, is hereby repealed in its entirety and replaced by the following:

Animal Control and Dog Licensing

1. **Purpose.** The Chester Town Board finds that the running at large and other uncontrolled behavior of dogs, cats and other domestic animals have caused harm to persons and damage to property and have created nuisances within the Town of Chester. The purpose of this Local Law is to preserve public peace and good order in the Town of Chester, to promote the public health, safety and welfare of its people by promulgating and enforcing regulations and restrictions on the activities of dogs, cats and other domestic animals that are consistent with the rights and privileges of the owners of such animals and the rights and privileges of other citizens of the Town, and to require the Licensing of Dogs consistent with Article 7 of the Agriculture and Markets Law of the State of New York.

(continued on page (1-A))

(If additional space is needed, attach pages the same size as this sheet, and number each.)

2. **Authority.** This Local Law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law of the State of New York and the Municipal Home Rule of the State of New York.

3. **Title.** The title of this Local Law will be "Animal Control and Dog Licensing Law."

4. **Definitions.**

A. As used in this Local Law, the following words or phrases shall have the following respective meanings:

Animal – Includes every living creature except a human being.

Animal Control Officer – An individual appointed by the Town Board of the Town of Chester who has the authority and responsibility set forth in this Law and who shall bear the additional authority and responsibility to enforce Article 7 of the Agriculture and Markets Law. The term "Animal Control Officer" shall also include any references to "Dog Control Officer".

Cat – Male or female member of the species felidae.

Confined – Securely restrained or 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, securely confined in a crate or other container or so restrained in a vehicle that it cannot be expected to escape therefrom.

Dog – Male or female member of the species canis familiaris.

Dog Control Officer – Shall be deemed to be inclusive within the title and position known as "Animal Control Officer".

Dog Owner – The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license of such dog. If a dog is not licensed, the term "dog 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 in, brought into or comes into the Town. In the event that the owner of any dog is under 18 years of age, the head of the household in which the minor resides shall be deemed the dog owner.

Domestic Animal – Any domesticated sheep, horse, cattle, goat, swine, fowl, duck, goose, llama, confined snake, confined lizard, ferret, confined pigeon, quail, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement including those raised under license from the State Department of Environmental Conservation before release from captivity.

Run at Large – To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands. No dog shall be deemed “at large” if it is:

- (i) A Guide Dog actually leading a blind person;
- (ii) A Hearing Dog actually assisting a deaf person;
- (iii) A Police Dog in use for police work;
- (iv) 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; or
- (v) A stray while in the care and custody of the Town of Chester.

Town – The Town of Chester.

B. Any word or phrase, other than the foregoing, used in this Law and which is defined in Agriculture and Markets Law Article 7 shall be interpreted as having such definition.

5. Position of Animal Control Officer.

A. The Animal Control Officer will act under the direction and administration of the Town Supervisor.

B. Term of Office. The Animal Control Officer shall serve at the pleasure of the Town Board, subject to civil service law requirements, if any.

C. Salary and Hours. The position of Animal Control Officer shall be a part-time position. Work hours, wages, salaries and/or rate of pay shall be established by the Town Board of the Town of Chester by resolution and subject to civil service law requirements, if any.

D. Conditions, qualifications and/or requirements for appointment/employment. As a condition of appointment/employment, any individual appointed as Animal Control Officer shall have the following credentials or meet the following requirements and be able to demonstrate compliance with the same:

- (1) A valid New York State driver's license;
- (2) Be over the age of eighteen (18) years of age;
- (3) Rabies pre-exposure vaccination;
- (4) Satisfactory completion of New York State Department of Agriculture and Markets DCO/ACO Training Seminar;
- (5) Keep, maintain and wear such uniforms and/or other symbols or cards of identification as may be designated by the Town Board of the Town of Chester by resolution; and

- (6) Keep, maintain and utilize such paging or other communication devices as may be provided and required by Town Board resolution.

6. **Powers and Duties.** The Animal Control Officer is hereby authorized and empowered and is assigned and delegated the following duties and responsibilities:

A. Receiving all complaints from citizens by telephone, in person or through the mail concerning nuisance, stray, running at large, and/or sick, disabled, injured or dead animals.

B. Responding to observations of or complaints concerning nuisance, stray, running at large animals and/or sick, disabled, injured or dead animals or unlicensed dogs as follows:

(1) In the case of nuisance, stray, sick, disabled or injured wild animals on public roadways or located upon public grounds, report the location and identify of the same to appropriate state and/or county authorities and obtain assistance, permits or instructions as to the proper handling and disposition of such wild animals and thereafter act in accordance with such guidance or authorization.

(2) In the case of nuisance, stray, sick, disabled, injured, dead, wild and/or domestic animals on private property, responses shall include direct intervention if it is felt that a concern for rabies exposure is present; and if no concern for rabies exposure is present, responses shall be to refer the individuals to the proper public agencies or private entities that provide services of assistance with regard to such animals.

(3) In the case of dead animals existing along state, county and town roadways or upon public properties, assist in or arrange for the picking up and disposing of the dead animals in accordance with the requirements of the Environmental Conservation Law and other laws of the State of New York.

(4) In the case of animals that are seized or captured in accordance with the provisions of this Law or the Agriculture and Markets Law Article 7, assist in arranging for the care and disposition of the same in accordance with the aforesaid laws or, if no guidance is found in said laws, by turning the same over to the proper animal pound, animal hospital or humane society or other appropriate institution.

(5) In the case of animals that are seized or dead animals that are disposed of in accordance with the terms of this law, determine whether the animals are marked or carry some sort of identification indicating the identity of the owners and, if such identification is present, notify the owners of the status of the animal.

(6) In the case of unlicensed dogs, the Animal Control Officer may seize any unlicensed dog, whether on or off its owner's premises.

C. Assisting in the arrangement of a quarantine or the removal for impounding and testing of any domestic or wild animal when a concern for rabies exposure is present.

D. Maintaining records of work performed, including a record of all animals impounded, at the Officer's direction, and/or those dead animals picked up and disposed of.

E. Enforcing the provisions of Article 7 of the Agriculture and Markets Law and the Town of Chester Animal Control and Dog Licensing Law by issuing appearance tickets, pursuant to the Criminal Procedure Law, serving a summons and serving and executing any other order or process in the execution of the provisions of the Town of Chester Animal Control Law and Agriculture and Markets Law, Article 7. The Animal Control Officer shall also assist in the filing of complaints by persons other than the Animal Control Officer.

F. Being responsible to perform routine maintenance work on any vehicles or other equipment used or assigned for use by the Animal Control Officer. The duties and responsibilities include keeping the vehicles and equipment in satisfactory condition by washing, cleaning and disinfecting, as may be necessary. In addition, in the event that any repairs are needed to the vehicles, the Animal Control Officer shall arrange for the repair or maintenance in accordance with the policies, procedures, rules or regulations adopted by the Town Board of the Town of Chester.

G. Performing such other additional and further duties that the Town Board may determine by resolution. Additional duties may include duties unrelated to dog and animal control or other duties assigned herein.

7. Licensing of Dogs.

A. All dogs in the Town of Chester shall be licensed with the Town Clerk by the age of four months, and any person applying for a dog license shall present a current certificate of rabies vaccination at the time of making application for a license or for the renewal of an existing license.

B. All dog licenses shall be valid for a period of one year and shall expire at the end of the month one year from the date of issuance.

C. The fee for a spayed or neutered dog shall be \$5, which fee includes the assessment of a surcharge of \$1 for the purpose of carrying out a program of animal population control. The fee for an unspayed or unneutered dog shall be \$15, which fee includes the assessment of a surcharge of \$3 for the purpose of carrying out a program of animal population control. The fee for a replacement tag shall be \$2. Such fees may be reviewed by the Town Board and changed by resolution. The animal population control surcharge shall be transmitted to the state and/or county administered program for such purpose.

E. Should the Town Board determine the need for a dog enumeration, a fee of \$5 will be assessed to the owner of any dog found unlicensed, including any whose license has expired and not been renewed.

F. The Town of Chester does not issue purebred or kennel licenses. All dogs must be licensed individually in accordance with the fees set forth above.

G. A license is required for any Guide Dog, Service Dog, Hearing Dog or Detection Dog, as those terms are defined by Article 7 of the Agriculture and Markets Law. However, the license fee will be waived for such dogs.

H. The Town does not allow the licensing of dogs by any animal shelter. Any shelter must send prospective adoptive dog owners to the Town Clerk for licensing prior to adoption.

I. All dog licenses shall be purchased in person at the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee shall accompany the forms. There shall be no refund of fees paid.

J. All fees shall be used in funding the administration of the Animal Control and Dog Licensing Law of the Town of Chester.

8. **Tag Required.** All dogs required to be licensed must wear an identification tag attached to a collar. No dog shall be permitted to be without a collar and identification tag. All untagged dogs shall be subject to seizure and confinement by the Animal Control Officer.

9. **Adequate Shelter and Sustenance Required.** All premises occupied or used by a dog, cat or other domestic animal shall be kept in a clean, sanitary condition. Failure to provide proper food, fresh water or adequate shelter from the elements of nature shall be a violation and a dog, cat or other domestic animal may be seized in accordance with the provisions of the New York State Agriculture and Markets Law.

10. **Additional Regulations and Restrictions.**

A. It shall be unlawful for the owner of any dog in the Town to permit or allow such dog to:

- (1) Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this Local Law, a dog hunting in the company of a hunter or hunters shall be considered to be accompanied by its owner.
- (2) 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, cat or other domestic animal.
- (3) Uproot, dig or otherwise damage any vegetable garden, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.
- (4) 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.

(5) 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.

(6) Create a nuisance by defecating, urinating or digging on public property or on a private property without consent or approval of the owner of such property.

(7) If a female dog in heat, be off the owner's premises unrestrained by a leash.

(8) Kill or injure any dog, cat or other domestic animal.

(9) Upset or otherwise interfere with garbage receptacles.

(10) Cause a hazard to public health which is supported by a determination of the Local Board of Health.

B. It shall be unlawful for the owner of any dog, cat or other domestic animal in the Town to:

(1) Knowingly affix to any dog, cat or other domestic animal any false or improper identification tag or purebred license tag.

(2) Fail to confine or destroy any dangerous dog upon order of any Judge or Justice as provided by the law.

(3) Fail to confine, restrain or present such dog, cat, or other domestic animal for any lawful purpose pursuant to the Local Law.

(4) Allow his or her cat to roam at large when over the age of six months unless it has been sterilized by a veterinarian.

(5) Keep or harbor any dog, cat or other domestic animal in such a manner that the premises on which it is kept or harbored reeks of offensive odors to the extent that the occupants of adjacent premises are materially deprived of their ability to occupy, use and otherwise enjoy those adjacent premises.

11. Seizure of Dogs, Redemption, Disposition and/or Impoundment. The Animal Control Officer may seize any unlicensed dog whether on or off the owner's premises and may seize any dog not wearing a tag that is at large.

A. If a dog is seized as an unlicensed, or untagged, dog it shall be held for redemption by the owner for a period of not less than five days.

B. The fees for any seizure and impoundment of any dog found to be unlicensed or untagged shall be as follows:

(1) For the first impoundment: \$20.

(2) For the second and any subsequent impoundment: \$50.

C. If the dog is not redeemed within the time allowed, the owner shall forfeit all title to the dog and it shall be released to an authorized humane society or kennel to be adopted or euthanized as appropriate.

12. Record of seizure. Upon taking custody of any dog, the Animal Control Officer shall make a record of the seizure which shall include the date, the breed if known, a general description, gender, time and place of pickup, location, release, and name and address of the owner.

13. Complaints. Any person who observes a dog in violation of this Law may file a signed complaint, under oath, with the Animal Control Officer who shall have authority to pursue such violation.

14. Enforcement. The Animal Control Officer of the Town of Chester shall administer and enforce the provisions of this Law and shall have the authority to issue appearance tickets and to seize dogs if witnessed to be in violation of this Law.

15. Penalty for Offenses. Any violation of this Law shall be punishable for each violation by a fine of not more than \$50 for a first offense, or \$100 for a second or subsequent offense.

SECTION 3. Repealer – All Local Laws or Ordinances and parts thereof inconsistent with this Local Law are hereby repealed. As stated in Section 2, the Animal Control and Dog Licensing Law enacted by this Local Law is specifically intended to supersede the provisions of the current Animal Control and Dog Licensing Law enacted by Local Law No. 1 of 2010 which is repealed by this Local Law.

SECTION 4. Severability – If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. When Effective – This local law shall take effect upon filing with the Secretary of State of the State of New York.