

**LOCAL # 1 of 2011 ENTITLED,
“DOG CONTROL LAW OF THE TOWN OF DARIEN”**

SECTION I. TITLE

The title of this Law shall be “Dog Control Law of the Town of Darien”.

SECTION II. AUTHORITY

This Local Law is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated 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 III. PURPOSE

The purpose of this Local Law is to protect the health, safety and well-being of persons, property, wildlife, and dogs by imposing restrictions on the keeping and running at large of dogs within the Town. This Law is being enacted because the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property, and created a nuisance within the Town.

SECTION IV. DEFINITIONS OF TERMS

For the purpose of the Local Law, the terms as hereinafter used are defined as follows. All terms defined in Section 108 of the Ag & M.L. shall have the same meaning as used herein unless specifically modified.

1. 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 Ag & M.L.
2. Dog Control Officer - Any person authorized by the Town Board, County or State Legislature from time to time, directed or permitted to enforce the provisions of this Local Law of the provisions of the Ag & M.L.
3. Animal Hospital - A facility operated by a veterinarian or certified animal care persons for the purpose of treating sick or injured animals.
4. Confined - A dog is securely confined or restrained when it is kept on the owner's premises either within a building, 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 another 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 Ag & M.L. pertaining to Cruelty to Animals).

5. Dog - Dog shall mean male or female, licensed or unlicensed, members of the species *Canis Familiaris*.
6. Dog Owner - A dog owner is the person, persons, firm, association or corporation who:
 - a. Purchased the license for the dog and is the registered owner; or
 - b. Professes ownership of the dog; or
 - c. Has custody or control of the dog; or
 - d. Harbors or is otherwise responsible for the dog; or
 - e. Is the parent, guardian or head of household of any minor under eighteen (18) years of age who owns or harbors the dog; or
 - f. Brings into or permits the dog to come into the Town.
7. For proof purposes, any person harboring, possessing or controlling a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this Local Law or Ag & 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 Ag & M.L. in the Town.
8. Kennel - A kennel is a facility that constitutes a business for keeping dogs for hire, or the business of breeding dogs for sale or boarding dogs, as certified by the Town Clerk; in accordance with the Town of Darien Zoning Law pertaining to Special Use Permits. (Town of Darien Zoning Law Adopted December 1986, Amended December 2007; Section 908.D).
9. 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.
10. Run 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.
11. Town - The "Town" as used herein shall mean any designated area within the boundary lines of the Town of Darien.

SECTION V. LICENSING & IDENTIFICATION

1. All dogs within the Town shall be identified, licensed and vaccinated in accordance with the requirements of Article 7 of the Ag & M.L., particularly Section 109 and Section 111 Subsection 1 and 2 thereof.
2. Any License or License Renewal sent by mail must include a self addressed, stamped envelope to return the licensing documents; and make checks out to Darien Town Clerk.
3. The Town of Darien does not allow the licensing of dogs by a shelter. The shelter **MUST** send the adoptive dog owners to the Town Clerk of the municipality in which the dog will be harbored for licensing.
4. The issuance of a dog license by the Town Clerk does not certify that all other requirements for land use in the Town of Darien have been met by the property owner.

SECTION VI. LICENSING FEES AND THEIR DISPOSITION

Pursuant to Municipal Home Rule Law, by the adoption of this Local Law, the Town of Darien, County of Genesee hereby authorizes the Town Board of the Town of Darien, County of Genesee to establish, by resolution, a schedule of dog licensing fees, enumeration fees and tag replacement fees. The Town Board of the Town of Darien, County of Genesee may exercise this authority as needed throughout the year.

The fees set by the Town Board are in addition to those required by Section 110 Subdivision 3 of the Ag & M.L. and shall become property of the Town. Once a license is approved by the Town Clerk, a refund cannot be granted.

Exempt from payment of the license fee are applications submitted for a dog license for any state certified guide, hearing, service, war, working search, detection, police and therapy dogs.

The fees for seizure/impoundment of dogs in violation of this Local Law or the Ag & M.L. Article 7 are as follows:

1. First Offense: \$20.00
2. Second Offense within a one (1) year period: \$40.00
3. Third and subsequent offenses within a one (1) year period: \$60.00

For impoundments lasting longer than twenty-four (24) hours; parts B and C above have the addition of a \$3.00 charge for every additional twenty-four (24) hours or part thereof.

SECTION VII. CHANGE OF OWNERSHIP OR ADDRESS: LOST, STOLEN OR DEAD DOGS

1. 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 shall within ten (10) days of such change, file with the issuing Town Clerk a written report of such change. If the dog will be harbored in a different municipality, the dog owner must also notify the Town Clerk of the municipality the new address is located in. Such owner of record shall be liable for any violation of Ag & 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.
2. 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 of the Ag & 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.
3. 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 of the Ag & M.L., and shall otherwise comply with Section 112.3 of the Ag & 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 VIII. DOG CONTROL OFFICER

The Town Board will by resolution maintain the appointment of a Town Dog Control Officer as required by Section 113 of the Ag & M.L., setting compensation therein. Such Officer shall have authority as set forth in Subdivision 3 of Section 113 of the Ag & 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 execution of the provisions of this Local Law as specified in Sections 113.4 and 122.2.c of the Ag & M.L. The Dog Control Officer shall maintain all reports required by Article 7 of the Ag & M.L., specifically Subdivisions 5 and 6 of Section 113.

SECTION IX. LICENSING ENFORCEMENT

1. Licensing Renewals - The Town Clerk shall review the records to ascertain dog owners who have failed to renew dog licenses within the prescribed time period, and shall initiate enforcement thereof. The Town Clerk will initiate the filing of an appearance ticket with the Genesee County Sheriff's office; who will serve the appearance ticket to the dog owner. This may result in prosecution of such act as a violation under the Penal Law in accordance with Ag & M.L. Section 118 and this Local Law. The Clerk shall notify the Town's Zoning Officer when any

one (1) parcel has more than four (4) licenses for dogs that are more than six (6) months old which constitutes a “dog kennel” as defined in the Town’s Zoning Law, Article IV, Section 402

2. Dog Census for Licensing Purposes - The Town Board will appoint a Dog Enumerator every three (3) years to complete a Town dog census. Dog owners discovered to be in violation of the Ag & M.L. and of this Local Law will be served or mailed a ten (10) day notice of delinquency requesting the owner come into compliance. Thereafter, should the dog owner fail to come into compliance within the ten (10) day period, the Town Clerk will initiate filing of an appearance ticket which may result in prosecution of such act as a violation under the Penal Law in accordance with Section 118 of the Ag & M.L. and this Local Law. Completed dog census reports will be kept on file with the Town Clerk.

SECTION X. 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 11, Subsection B of this Local Law for exception) between sunset and one hour after sunrise. Violations of this quarantine shall be punishable in accordance with Ag & M.L. and this Local Law and dogs may be seized or destroyed as authorized by Ag & M.L., Section 121. (See attached copy of Genesee County Legislature Resolution No. 89 of 1980).

SECTION XI. RESTRICTIONS

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

1. Violate the County night quarantine noted in Section 10 above.
2. 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.
3. 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 of repose of any persons other than the owner of such dog.
4. Uproot, dig into, upset or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers or other property not belonging to the owner of such dog.
5. Destroy, kill, or damage any poultry, livestock, or domestic pets not belonging to the owner or protected wildlife.

6. 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 a 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.
7. 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 harborer of said dog.
8. Create a nuisance by defecating, urinating or digging on public or private property other than the property of the said owner.
9. Allow a female dog to be off the owner's property when in heat except for when transporting such dog to a veterinarian's office or when involved in a formalized, controlled breeding program.
10. Run at large on any school premise or recreational areas, or the sidewalks adjacent thereto.
11. 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 XII. SEIZURE OF DOGS

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 Ag & M.L. 117); or
2. Any dog found running at large in violation of the above quarantine or restrictions.

To affect 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 Ag & M.L. Section 117. 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 Ag & 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 Ag & M.L. Section 117 and by the Genesee County Animal Shelter.

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

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 Ag & M.L. Section 117.11).

SECTION XIII. HOLDING PERIODS AND IMPOUNDMENT FEES

Following seizure of a dog pursuant to this Local Law, it shall be impounded pursuant to Ag & M.L. Section 117, and the holding period and fee will be set in accordance with Ag & M.L. Section 117.4.a-c. All impoundment fees shall be the property of the municipality to which they are paid.

SECTION XIV. DOG FORFEITURE, ADOPTION AND EUTHANIZATION

All dogs seized pursuant to this Local Law will be subject to forfeiture, adoption and euthanization as set forth in Ag & M.L. Section 117, 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 Ag & M.L. Section 117.7).

SECTION XV. ENFORCEMENT

This Local Law may be enforced by either the Town Dog Control Officer, County or State Dog Control Officers and/or Police Officers.

SECTION XVI. VIOLATIONS

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

1. Any dog owner to fail to license any dog, all dogs over four (4) months old must be licensed;
2. Any dog owner to fail to have any dog identified as required by Ag & M.L. Section 111;
3. Any dog owner to violate the night quarantine noted above;
4. Any dog owner to knowingly affix any false or improper identification tag; or
5. 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 Ag & M.L. Section 118.

Fines and penalties for any violation of this Local Law will be in amounts set forth in Section 119.

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

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

SECTION XVII. DANGEROUS DOGS

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

SECTION XVIII. 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 this Local Law or Ag & Markets Article 7 shall become the property of the Town.

SECTION XIV. COMPLAINTS

Any person who observed a dog in violation of this Local Law may file a complaint with either the Town Dog Control Officer, County or State Dog Control Officer 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.

Upon receipt by the 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 the 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:

1. The dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property, and/or
2. Such other remedy as may be warranted by the circumstances in such case (including euthanasia).
3. A violation of any order issued by a Town Justice under the provisions of this Section 19 shall be an offense punishable, upon conviction thereof, as provided in Section 16 of this Local Law.

SECTION XX. SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision hereof shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION XXI. REPEALER

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Darien including, but not limited to, Local Law No. 1 of 1993 and Local Law 1 of 1994, and they shall be, upon the effective date of this Local Law, null and void.

SECTION XXII. EFFECTIVE DATE

This Local Law shall take effect January 1, 2011 after filing in the Office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.

RESOLUTION NO. 89 NIGHT QUARANTINE ON DOGS - APPROVAL OF

Legislator Kirkpatrick offered the following resolution:

WHEREAS, Prior to January 1, 1980, an order for the night quarantine of dogs was issued through the Commissioner of Agriculture and Markets, and

WHEREAS, Pursuant to Section 123 of the Agriculture and Markets Law, municipalities may now invoke such an order without going through the state, and

WHEREAS, The Committee on Ways and Means would recommend that a night quarantine on dogs be invoked at this time. Now, therefore, Be it

RESOLVED, That the Genesee County Legislature does hereby invoke a night quarantine on dogs through the County of Genesee requiring that all dogs shall be securely confined between sunset and one hour after sunrise, and Be it further

RESOLVED, That this quarantine shall be effective immediately and be in force until revoked by action of the Genesee County Legislature.

Legislator Kutter seconded the resolution which was adopted by unanimous vote.

State of New York }
County of Genesee } ss.
I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Genesee County Legislature on the 9th day of April 19 80
Dated, Batavia, N.Y. 4/5 19 91
Kathleen Jasinski
Deputy Clerk of the Genesee County Legislature