

DOGS

Chapter 17

DOGS

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[HISTORY: Adopted by the Board of Trustees of the Village of Walton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Control of Dogs

[Adopted 2-6-2006 by L.L. No. 1-2006¹]

§ 17-1. Purpose.

The purpose of this article shall be to preserve public peace and good order in the Village of Walton and to promote the public health, safety and welfare of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Village of Walton.

§ 17-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AT LARGE — An unleashed dog off the premises of the owner, with a permitted exception for being on the premises of a property owner who has consented in writing that the dog may be on his/her property without a leash.

¹ Editor's Note: This local law superseded former Ch. 17, Dogs and Cats, adopted 3-20-2000 by L.L. No. 3-2000, as amended.

DOG — Means both male and female dogs.

DOG CONTROL OFFICER — A person or persons appointed by the Town for the purpose of enforcing this article.

HABITUAL — Occurring on two or more occasions within a seven-day period, and each occasion having a duration of 30 minutes or longer.

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 — Includes any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in custody and control of parents or other head of the household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for the purpose of enforcing this article.

§ 17-3. Regulations and restrictions.

It shall be unlawful for any owner of a dog in the Village of Walton to permit or allow such dog to:

- A. Run at large.
- B. Be off the owner's property unless leashed.
- C. Engage in habitual loud howling, barking or whining or to conduct itself in such a manner as to habitually annoy any person other than the owner or harborer of the dog.
- D. Cause damage or destruction to public or private property, defecate, urinate or otherwise commit a nuisance upon the property of persons other than the owner or harborer of the dog.
- E. Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation or to put such a

person in reasonable apprehension of bodily harm or injury.

- F. Chase, leap on or otherwise harass bicycles or motor vehicles.
- G. Kill or injure any dog, cat or other household pet.
- H. Be unlicensed when four months of age or older, or such earlier age as shall be established by the NYS Agriculture and Markets Law from time to time.
- I. Not have a current and valid New York State identification tag on its collar.

§ 17-4. Filing complaints.

Any person who observes a dog in violation of any section of this article may file a signed complaint, under oath, with the authorized Dog Control Officer or any peace officer, specifying the violation, the date and time of violation, the damage caused and including the place(s) the violation occurred and the name and address of the dog owner, if known.

§ 17-5. Enforcement.

Any person(s) lawfully authorized by the Village of Walton shall, and all peace officers may, enforce the provisions of this article. They shall have the authority to issue summons or appearance tickets and to seize dogs on or off the owner's premises, as appropriate, if in violation of this article.

§ 17-6. Penal Law penalties.

A violation of this article shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine of \$25 for the first violation, \$50 for the second violation and \$75 for the third or more violation. Violations are cumulative only for the same type of offense and are not cumulative beyond a calendar year.

§ 17-7. Fines, civil penalties and surcharges.

The Dog Control Officer shall be authorized to collect such fines, civil penalties and surcharges as are permitted by the NYS Agriculture and Markets Law from time-to-time in addition to license fees and penalties under this article.

§ 17-8. Female dogs.

All female dogs shall be confined to premises of their owner while such are in season (heat) and may not be left outside unattended. Any owner not adhering to this rule will be subject to having the dog seized by the Dog Control Officer and removed temporarily to a safe place of confinement.

§ 17-9. Conditions for keeping dogs.

All premises occupied or used by dogs shall be kept in a clean, sanitary condition. Failure to provide adequate food, water or space shall subject dogs to seizure and confinement. "Adequate" shall mean sufficient for the age, size and number of dogs on the premises. Upon conviction of the owner or harbinger, the dogs become the property of the Village of Walton, to be released to an authorized humane society, veterinarian or kennel for adoption or euthanasia.

§ 17-10. Seizure procedure.

Upon taking custody of any animal, the Dog Control Officer shall make a record of the matter. The record shall include date and time of pickup; the breed, general description, sex and identification numbers of the animal; time of pickup and location of release; and name and address of owner, if any.

§ 17-11. Redemption.

- A. If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of no less than three days.
- B. If a dog seized is wearing an identification number, the owner shall be promptly notified, either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of no less than seven days; if notified by mail, no less than nine days. These periods of time may be abbreviated by the respective owner's earlier redemption of the dog, paying at the time of redemption all fees for impoundment, care and housing the dog and immediately licensing the dog. The owner of the dog shall be responsible for any impoundment fee established by the Village, plus any other expenses incurred by the municipality to humanely care for the dog.
- C. If a dog is not redeemed, 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.

§ 17-12. Violations.

No person shall hinder, resist, or oppose the Dog Control Officer, peace officer, or other person(s) authorized to administer or enforce the provisions of this article in the performance of the officer's duties under this article. Persons violating this section of this article may be charged with obstruction of governmental administration in the second degree pursuant to § 195.05 of the NYS Penal Law.

§ 17-13. Nonliability of Village.

The owner or harbinger of any dog so destroyed under the provisions of this article, whether destroyed by the Dog Control Officer or a peace officer or released to an authorized humane society or veterinarian, shall not be entitled to any

compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

ARTICLE II
Dangerous Dogs
[Adopted 2-6-2006 by L.L. No. 2-2006]

§ 17-14. Definitions.

Whenever used in this article, the following terms shall be defined as follows:

DANGEROUS DOG —

- A. Any dog that, when unprovoked, approaches or menaces any person in a dangerous or terrorizing manner or in an apparent attitude of attack, upon the streets, sidewalks, or any public grounds or places; or
- B. Any dog with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
- D. Any dog owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting.

OWNER — Any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

PERSON — Any individual, partnership, firm, joint-stock company, corporation or employee thereof, or other legal entity, unless otherwise stated.

SEVERE INJURY — Any physical injury that results in broken bones or disfiguring lacerations requiring either multiple stitches or cosmetic surgery.

TOWN JUDGE — Either of the duly elected Justices of the Town of Walton in office at the time enforcement of this article is sought.

UNPROVOKED — That the dog was not hit, kicked, taunted or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched or squeezed by a person.

§ 17-15. Acquisition or sale of dangerous dog prohibited.

- A. No person shall own or harbor any dog for the purpose of dogfighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack human beings or domestic animals when not provoked.
- B. No person shall sell, offer for sale, breed, buy or attempt to buy any dangerous dog within the Town of Walton.

§ 17-16. Determination of dangerous dog; compliance with certain requirements.

The Town Judge shall have the authority to make determination that a dog is dangerous, as defined in § 17-14 above, upon the written application of the Town of Walton Dog Control Officer acting upon a complaint of any person that a dog is dangerous. The Town Judge shall make such determination after a hearing, written notice of which shall be given to the Town of Walton Dog Control Officer and to the owner of the dog, within fifteen days after seizure when seizure of the dog has been ordered by the Town Judge, where the owner's address can be reasonably ascertained by the Town Judge. The hearing shall be held no less than 10 days nor more than 20 days after such notice is mailed to the owner of the dog. At such hearing all interested persons shall have the opportunity to present

evidence on the issue of the dog's dangerousness. In the event that the dog in question has caused severe injury to any person, the Town Judge may impound the dog, at the owner's expense, pending the hearing and determination of the complaint. If, after the hearing, the Town Judge determines that the dog is dangerous, he or she may order the owner to comply with one or more of the following requirements in any combination thereof:

- A. **Registration.** The Town Judge may order the owner of a dangerous dog to register such dog with the Town. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color, and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner and any other information which the Town Judge may require. The application for registration pursuant to this subsection shall be accompanied by a registration fee of \$25. Each dog registered pursuant hereto shall be assigned an official registration number by the Town Judge. A certificate of registration shall be of such form and design and shall contain such information as the Town of Walton Dog Control Officer shall prescribe and shall be issued to the owner upon payment of the registration fee and the presentment of sufficient evidence that the owner has complied with all of the orders of the Town Judge as prescribed at the determination hearing.
- B. **Muzzling or confinement.** The Town Judge, upon written application of the Town of Walton Dog Control Officer, may order the owner of a dangerous dog to muzzle the dog or confine the dog, at all times, indoors or in a proper enclosure for a dangerous dog, which shall consist of a securely enclosed and locked pen or structure suitable to prevent the entry of young children or any part of their bodies or other foreign objects and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and shall prevent the dog from digging his way out through the bottom. The pen or structure shall also provide the dog with protection from the

elements. The owner shall also conspicuously display a sign, designed with a warning symbol approved by the Commissioner which indicates to both children and adults the presence of a dangerous dog, on the pen or structure and on or near the entrance to the residence where the dog is kept. At any time that the dog is not confined as required herein, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person and shall be kept on a leash no longer than six feet, with the owner or some other responsible person attending such dog.

- C. Liability insurance. The Town Judge may order the owner of a dangerous dog to maintain, in full force and effect, a liability insurance policy for personal injury or death of any person, resulting from an attack of such dangerous dog.
- D. Humane destruction. The Town Judge may order the humane destruction of any dog that kills or causes severe injury to a human being, based upon the severity of the injury and the circumstances of the injury.
- E. Other remedies. The Town Judge may order that the dog be permanently removed from the Town; or that the owner and the dog complete a course of obedience and/or anti-bite training approved by the Town Judge.

§ 17-17. Confiscation and/or confinement of dangerous dog.

- A. In the event that the owner of a dangerous dog violates any order of the Town Judge as prescribed at the determination hearing, such owner's dog may be confiscated and impounded by the Town of Walton Dog Control Officer upon the order of the Town Judge. In addition, any dog determined to be dangerous shall be immediately confiscated by the proper authorities if the dog bites or attacks a human being and causes injury, or if the dog, at the sufferance of its owner, is engaged in or

apparently engaged in a dogfight contest or is proximately near the area in which such a contest is being conducted.

- B. The owner of a dog determined to be dangerous by the Town Judge and which has been confiscated pursuant to Subsection A of this section may request the Town Judge to conduct a hearing to determine if the dog should be returned to the owner. Upon such request, the Town Judge shall provide for a hearing within 15 days.

§ 17-18. Excused behavior.

No dog shall be declared dangerous if the threat, injury, or damage caused by such dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or was committing or attempting to commit a crime; nor shall any dog be declared dangerous if it was responding to pain or injury or was protecting itself, its kennels, or its offspring.

§ 17-19. Penalties for offenses.

Any person who violates any provision of the regulations promulgated hereunder shall be guilty of a violation punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than 15 days, or both, plus any applicable NYS surcharge.

§ 17-20. Nonliability of Town.

The owner or harbinger of any dog so destroyed under the provisions of this article, whether destroyed by the Dog Control Officer or a peace officer or released to an authorized humane society or veterinarian, shall not be entitled to any

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compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.