

ORDINANCE #33

DOG CONTROL ORDINANCE FOR THE TOWN OF BOLTON

Adopted: December 7, 2010 – Local Law No.3 for the Year 2010

Amended: March 1, 2011-Local Law No. 1 for the Year 2011 Section 7(C) only

Published: March 19, 2011

Be it enacted by the Town Board of the Town of Bolton as follows:

Section 1: Purpose: The Town Board of the Town of Bolton finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs can cause physical harm to persons, damage to property and may create nuisances within the Town. The purpose of this Ordinance is to protect the health, safety and well being of persons and property by enacting requirements as herein provided.

Section 2: Authority: This Ordinance is enacted pursuant to provisions of Article 7, Chapter 59; Part T of the Agriculture & Markets Law and the Municipal Home Rule Law of the State of New York.

Section 3: Title: The title of this law shall be, “DOG CONTROL ORDINANCE FOR THE TOWN OF BOLTON.”

Section 4: Definition of Terms: As used in this Ordinance, the following words shall have the following respective meanings:

- (a) “Dog” means male and female, licensed and unlicensed, members of the species *canis familiaris*.
- (b) “Responsible Person” means an individual sixteen (16) years of age or older physically capable of assuring that the dog under their full control acts in conformity within the requirements of this ordinance.
- (c) “Full Control” means that the dog is effectively muzzled or restrained by a collar and leash (not exceeding six (6) feet in length) and accompanied by a responsible person.
- (d) “Owner” means a person or persons entitled to claim lawful custody and possession of a dog, and such person or persons who are responsible for purchasing the license for such dog. The term owner shall include any person or persons, firm, association or corporation who or which, at any time, owns, has custody of, harbors or is otherwise in control of any dog that is kept, harbored or maintained within the Town. Any person owning or harboring a dog for a period of at least one (1) week prior to the filing of this Ordinance shall be deemed an Owner. If any person alleged to be an Owner of a dog acting in violation of this Ordinance shall be under the age of eighteen (18) years, the head of the household in which said minor resides shall be deemed to have custody and control of said

dog and shall be responsible for any acts of said dog in violation of this Ordinance.

- (e) “Run at Large” means to be in a public place or on private land without the knowledge, consent and approval of the owner of such premises.
- (f) “Town” means the Town of Bolton.

Section 5: Restrictions: It shall be unlawful for any owner of any dog in the Town to permit or allow such dog to:

- (a) Run at large unless the dog is accompanied by its owner or a responsible person and under full control of such owner or responsible person. For the purpose of this Ordinance, a dog or dogs hunting in the company of a hunter or hunters shall be considered as being accompanied by its owner.
- (b) Engage in habitual and loud howling, barking, crying or whining or conduct as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- (c) Uproot, dig or otherwise damage any planted vegetables, lawns, flowers or garden beds upon the property of another or upon public lands.
- (d) Chase, jump upon or at, or otherwise harass any person in such manner as to reasonably cause intimidation or fear, or to put such person in reasonable apprehension of bodily harm or injury.
- (e) Habitually chase, run alongside of or habitually 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.
- (f) Create a nuisance by defecating, urinating or digging on public property or on private property without the consent and approval of the owner of private property.
- (g) Allow a female dog, when in heat, to be running at large off the owner’s premises and unrestrained by a leash.

Section 6: Prohibitions: No dog shall be allowed in any town park or at any town beach. This prohibition shall not apply to service dogs or assistance dogs that are a companion to a handicapped or disabled person.

Section 7: Licensing of dogs:

- (a) All dogs older than four (4) months must be licensed with the town clerk. The town clerk shall require submission of a current Certificate of Rabies inoculation from the owner as a pre-requisite for the issuance of a license or the renewal of an existing license.
- (b) All dog licenses shall be for a period of one (1) year and shall expire at the end of the month one year from the date of issuance.
- (c) Fees for Licensing Dogs: The fee for a spayed or neutered dog shall be Five Dollars (\$5.00), which shall include a *Three Dollar (\$3.00) surcharge for the purpose of carrying out animal population control; however, the fee for an unspayed or unneutered dog shall be Thirteen Dollars (\$13.00), which shall include a Three Dollar (\$3.00) surcharge for the purpose of carrying out animal population control. Such fees shall be reviewed by the Town Board periodically and may be changed by a simple resolution of the Town Board, if deemed necessary. There shall be no refund of fees for any reason.**FEE AMENDED MARCH 1, 2011. *FEE FOR A SPAYED OR NEUTERED DOG SHALL BE FIVE DOLLARS (\$5.00) WHICH SHALL INCLUDE A ONE DOLLAR (\$1.00) SURCHARGE FOR THE PURPOSE OF CARRYING OUT ANIMAL POPULATION CONTROL.**
- (d) Enumeration Fee: If the Town Board determines the need for a town-wide dog enumeration, a fee of Five Dollars (\$5.00) shall be assessed to all owners of dogs that are found to be unlicensed or with an expired license at the time the enumeration is conducted. Such enumeration fee shall be collected in addition to the charges imposed pursuant to Section 6(c) herein.
- (e) Purebred License: The Town shall not issue purebred or kennel licenses. All dogs shall be licensed individually as per fee system stated within.
- (f) Service Dogs: The Town shall not require a license for any guide dog, service dog, hearing dog or detection dog. It shall be the service dog owner's responsibility to provide adequate proof to the satisfaction of the town clerk that a dog qualifies as a service dog.
- (g) The Town does not allow the licensing of dogs by any shelter. Any shelter within the town shall direct an adoptive dog owner to the town clerk for the purchase of the dog license.
- (h) Dog licenses may be purchased in person at the Town offices or by application submitted by regular mail. Licensing or renewal of a license when made by mail shall require prepayment of the appropriate fee.
- (i) All collected fees shall be applied in accordance with the administration of this Ordinance.

- (j) Fees for Seizure of Dogs: The fee for seizure and impoundment of dogs in violation of this law or the laws of the New York State Agriculture & Markets Law is as follows:

First offense: An amount equivalent to any impoundment or euthanasia fee (per dog) incurred by the Town for such purpose.

Second and subsequent offenses: Sixty Dollars (\$60.00) plus any impoundment or euthanasia fee (per dog) incurred by the Town for such purpose.

Section 8: Procedure for Seizure of Dogs:

- (a) The dog control officer or any peace officer shall seize:
- 1) Any unlicensed dog whether on or off the owner's premises.
 - 2) Any dog not wearing a tag or unidentified and running at large off of the owner's premises.
 - 3) Any dog found in violation of paragraphs (a) through (g) of Section 5 of this Ordinance. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of Agriculture & Markets Law, and pursuant to any order of the town court in such case.
- (b) A dog control officer or peace officer personally observing a violation of this Ordinance shall be authorized to issue and serve an appearance ticket for such violation. Such accusation is a petty offense and not a misdemeanor.
- (c) Any person who observes a dog acting in violation of this Ordinance may file a written complaint under oath with the town court 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 shall constitute a basis for enforcing the provisions of this Ordinance.

Section 9: Penalties: Any person convicted of a violation of this Ordinance shall be liable for a civil penalty not to exceed Fifty Dollars (\$50.00) for a first violation; not to exceed One Hundred Dollars (\$100.00) for a second violation; and not to exceed Three Hundred Dollars (\$300.00) for each subsequent violation. Such penalty imposed shall be in addition to any fee imposed for seizure of a dog. Imposition of a penalty under this Ordinance shall not preclude the Town from requiring that the owner reimburse the Town for any cost incurred in sheltering, feeding and caring for the dog.

Section 10: Administrative:

- (a) Any premises occupied and used for the harboring of dogs shall be maintained in a clean and sanitary condition. Failure to provide adequate food, water or space

and/or shelter shall subject dogs to seizure and confinement. “Adequate” food, water, space and/or shelter shall mean sufficient for age, size and the number of dogs on a premises. “Space and/or shelter” shall mean reasonably housed or sheltered from the elements. Any owner or harbinger of a dog convicted of violating this section in addition to other penalties imposed, the dog or dogs involved in such violation shall become the property of the Town of Bolton to be released to an authorized humane society, veterinary clinic or kennel for adoption of euthanasia.

- (b) No person shall act in any manner so as to hinder, resist or oppose the dog control officer or peace officer authorized to administer or enforce the provisions of this Ordinance in the performance of their duties.
- (c) The owner or harbinger of any dog destroyed by application of the provisions of this Ordinance shall not be entitled to any compensation, and no action shall be maintainable regarding recovery or the value of such dog.
- (d) Any violation of Section 9 (a) or (b) resulting in a conviction shall allow the application of penalties specified in Section 8 herein.

Section 11: Severability: Each separate provision of this Ordinance shall be deemed independent of all other provisions herein. If any provision shall be declared invalid by a court of competent jurisdiction, all other provisions hereof shall remain in full force and effect.

Section 12: Repealer: This Ordinance is intended to repeal and replace the existing Ordinance #33 entitled, “AN ORDINANCE OF THE TOWN OF BOLTON TO RESTRAIN THE RUNNING AT LARGE OF UNMUZZLED DOGS, WHETHER LICENSED OR NOT” within the Town of Bolton as of its effective date.

Section 13: Effective Date: This Ordinance shall be deemed effective in accordance with the requirements of law.