

LOCAL LAW NUMBER \_\_\_\_ OF 2011

A local law to provide for the  
licensing and identification of  
dogs and to amend the existing  
dog control law.

Be enacted by the Board of Trustees of the Village of Pelham as follows:

**SECTION 1**

Chapter 41 of the Code of the Village of Pelham is repealed.

**SECTION 2**

Chapter 42 of the Code of the Village of Pelham is divided into three articles, and the first article is called "Article I Title, Purpose and Definitions" and includes § 42-1 through § 42-3

**SECTION 3**

The current § 42-1 of the Code of the Village of Pelham is repealed, and the following new § 42-1 is adopted.

**§ 42-1. Title.**

The title of this chapter shall be "Dog Licensing and Control Law of the Village of Pelham."

**SECTION 4**

§ 42-2 of the Code of the Village of Pelham is repealed, and the following new § 42-2 is adopted:

**§ 42-2. Purpose.**

The Board of Trustees of the Village of Pelham hereby finds and declares that the purpose of this chapter is to provide for the licensing and identification of dogs, the control and protection of the dog population, and the protection of persons, property, and domestic animals from dog attack and damage.

## **SECTION 5**

The following changes are made to the current § 42-3 of the Code of the Village of Pelham:

- a) The introduction to the current § 42-3 is repealed, and the two following new subsections of introduction are adopted to precede the list of definitions:
  - A. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York.
  - B. As used in this chapter, the following terms shall have the meanings indicated:
- b) In the definition of "owner" the words following the word "dog" are repealed.
- c) The definition of "at large or run at large" is repealed.
- d) The following new definitions are adopted and included in the new § 42-3:

### **AGRICULTURE AND MARKETS LAW**

The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter and as thereafter amended.

#### **AT LARGE**

To be in a public place or on private land without the knowledge and consent of the owner of such lands.

#### **IDENTIFICATION TAG**

A tag issued by the Village Clerk, which sets forth the identification number together with the name of the Village and State, the telephone number of the Village Clerk, and any other information deemed necessary by the Village Clerk.

#### **OWNER OF RECORD**

The person in whose name a dog was last licensed pursuant to this chapter or the former licensing laws, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

**PERSON**

A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

**RESIDENT**

A person who maintains a residence within the Village of Pelham

**VILLAGE**

The Village of Pelham

**SECTION 6**

A new second article of Chapter 42 of the Code of the Village of Pelham is adopted as follows:

**ARTICLE II DOG LICENSING AND CONTROL**

**§ 42-4. Authority.**

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law.

**§ 42-5. Licensing of Dogs.**

- A. No person shall own or possess a dog within the Village unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and the laws of the Village.
- B. Within the Village all dogs that are four (4) months of age or older shall be licensed unless they are otherwise exempted. No license shall be required for any dog which is under the age of four months and which is not at large.
- C. The owner of each dog required to be licensed shall obtain, complete and return to the Village Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Village or New York State.

**§ 42-6. Licenses issued by Animal Shelters and Pounds.**

The Village does not allow the licensing of dogs by a shelter or pound. The shelter or pound must send the adoptive dog owners to the Clerk of the Village of Pelham where the dog will be

harbored for licensing or to the Clerk of the municipality, where the shelter or pound is located for the purchase of the license for adoption purposes.

**§ 42-7. Licensing Grace Period for Dogs licensed in New York City or Outside New York State**

Any dog harbored within the Village which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this chapter.

**§ 42-8. Proof of Vaccination against Rabies.**

Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.

**§42-9. Term of License and Renewals.**

Each license issued pursuant to this chapter shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued.

**§42-10. Fees.**

The Board of Trustees of the Village of Pelham is authorized to establish by resolution a schedule of fees for dog licenses, enumeration, and tag replacement. The Board of Trustees may exercise this authority as needed throughout the year.

**42-11. Issuance of license; identification tag.**

- A. Upon validation by the Village Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Village. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.
- B. No license shall be transferable. When the ownership of any dog is transferred, 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
  1. Upon the transfer of ownership of any dog, the new owner shall immediately make an application for a license for such dog.
  2. The owner of record of any dog that has been assigned an official identification number shall notify the Village Clerk of any change in the ownership of the dog

and of any change of address of the owner of record. The owner of record shall make the notification within ten days of the change.

3. If any dog that 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 Village Clerk.
4. In the case of a dog's death, the owner of record shall so notify the Village Clerk either prior to renewal of license or upon the time of such renewal.

D. Identification tag.

1. The Village Clerk shall assign a Village 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 except for the circumstances set forth in Subsection 2 of this Subsection.
2. While a dog is participating in a dog show, the dog is not required to wear its identification tag.
3. The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
4. It is illegal to affix a tag carrying an identification number to the collar of any dog other than the one to which the number has been assigned.
5. When a dog is first licensed, the Village will provide the dog's owner with one identification tag. If the identification tag is lost or stolen, the owner must apply to the Village for a replacement identification tag and pay the fee for the replacement identification tag.

**§42-12. Dogs must be restrained.**

- A. Every dog owner must restrain his or her dog by a chain or leash not exceeding six feet in length on any street, in any public place, and on private property not owned or leased by the dog's owner unless the dog's owner has received informed consent from the property's owner, lessee, or their authorized agent.
- B. Exempt from this subsection are a police dog in the act of doing police work and a guide dog actually leading a blind or otherwise impaired person.

### **§42-13. Penalties for violations of Article II.**

A violation of this article shall be punishable by a fine of not less than twenty-five (25) dollars with the following exceptions:

- A. When a person is found to have violated this article, Article 7 of the Agriculture and Markets Law or former Article 7 of the Agriculture and Markets Law within the preceding five years, the fine may not be less than fifty (50) dollars, and
- B. When the person is found to have committed two or more such violations within the preceding five (5) years, it shall be punishable by a fine of not less than one hundred (100) dollars or imprisonment for not more than fifteen (15) days, or both.

### **SECTION 7**

In Chapter 42 of the Code of the Village of Pelham, a new Article III entitled "Additional Local Laws" is created and includes § 42-14 through § 42-18.

### **SECTION 8**

Section 42-4 of the Code of the Village of Pelham is renumbered §42-14, its Subsection A is repealed, and its remaining subsections "B through H" are re-lettered "A" through "G."

### **SECTION 9**

Section 42-5 of the Code of the Village of Pelham is renumbered §42-15 and is amended as follows:

- a) In the first sentence, the words "It shall be the duty of any" are repealed, and the word "Every" is substituted.
- b) In the first sentence, the word "must" is inserted before the word "immediately" and word "to" after "immediately" is deleted.
- c) In the first sentence, a period is placed after the words "of such property" to end the sentence, and the remainder of the first sentence and the second sentence are repealed.
- d) The following new second sentence is adopted:

This section shall not apply to a blind person using a guide dog:

## **SECTION 10**

Section 42-6 of the Code of the Village of Pelham is repealed, and the following §42-16 is adopted:

### **§42-16. Certain dogs prohibited.**

It is illegal for any person to own, keep, or harbor a vicious dog in the Village.

## **SECTION 11**

§42-7 of the Code of the Village of Pelham is renumbered §42-17 and is amended by substituting the word "article" for the word "chapter" in both Subsection A and Subsection B.

## **SECTION 12**

Section §42-8 of the Code of the Village of Pelham is repealed, and the following new section §42-18 is adopted.

### **§42-18. Severability Clause.**

The provisions of this chapter 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 parts of this chapter.

## **SECTION 13 Effective Date.**

This local law shall be effective upon filing with the Secretary of State.

Draft 11 02-07

This copy of the current Chapters 41 and 42 of the Code of the Village of Pelham shows the changes included in the proposed local law. The deleted portions are crossed out, and the additions are underlined.

## ~~Chapter 41 DOGS AND OTHER ANIMALS~~

### ~~ARTICLE I DOG LICENSE FEES~~

#### ~~§ 41-1 Legislative declaration.~~

~~The Board of Trustees of the Village of Pelham recognizes that the existing dog license fees provided for by § 109 of the Agriculture and Markets Law are inadequate to compensate the Village for its costs relating to the administration of dog licensing and control of dogs in the Village. This chapter is enacted pursuant to Chapter 220 of the Laws of New York 1978, Sections 1 through 7, and Chapter 221 of the Laws of New York 1978, Sections 1 through 4;~~

#### ~~§ 41-2 Fees.~~

~~In addition to the dog license fees which, in the absence of any local laws to the contrary, are or would be provided for by such applicable actions of the Agriculture and Markets Law as may be in force and effect from time to time, any applicant for a dog license in the Village of Pelham shall pay to the Clerk of the Village of Pelham an additional fee in an amount established by resolution of the Board of Trustees, which additional fee shall be the property of the Village.~~

## CHAPTER 42 DOG LICENSING AND CONTROL LAW

### ARTICLE I TITLE, PURPOSE AND DEFINITION

#### § 42-1 Title.

~~This chapter shall be known and may be cited as the "Dog Control Law of the Village of Pelham, New York.~~

The title of this chapter shall be "Dog Licensing and Control Law of the Village of Pelham."

**§ 42-2 Purpose.**

~~The Village Board of the Village of Pelham finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons, damage to property and have created nuisances within the Village. The purpose of this chapter is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Village.~~

The Board of Trustees of the Village of Pelham hereby finds and declares that the purpose of this chapter is to provide for the licensing and identification of dogs, the control and protection of the dog population, and the protection of persons, property, and domestic animals from dog attack and damage.

**§ 42-3 Definitions.**

As used in this chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

A. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York.

B. As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURE AND MARKETS LAW** The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter and as thereafter amended.

~~**AT LARGE or RUN AT LARGE**~~

~~Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless knowledge, consent and approval for such presence have been obtained. No dog shall be deemed to be at large if it is:~~

~~A. A guide dog actually leading a blind or otherwise impaired person.~~

~~B. A police dog in use for police work.~~

**AT LARGE** To be in a public place or on private land without the knowledge and consent of the owner of such lands.

**DOG** Any member of the species *Canis familiaris*.

**HARBOR** To provide food or shelter to any dog on a continuing basis.

**IDENTIFICATION TAG** A tag issued by the Village Clerk, which sets forth the identification number together with the name of the Village and State, the telephone number of the Village Clerk, and any other information deemed necessary by the Village Clerk.

**OWNER** Any person who harbors or keeps any dog or has the custody or control of any dog.

**OWNER OF RECORD** The person in whose name a dog was last licensed pursuant to this chapter or the former licensing laws, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

**PERSON** A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

**RESIDENT** A person who maintains a residence within the Village of Pelham

**VICIOUS DOG** Any dog which is habitually quarrelsome with other dogs or any dog known to have bitten more than one person or any person more than once if at the time of each bite the person who was bitten was peaceably conducting himself in any place where he may lawfully be.

**VILLAGE** The Village of Pelham

## **ARTICLE II DOG LICENSING AND CONTROL**

### **§ 42-4. Authority.**

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law.

### **§ 42-5. Licensing of Dogs.**

- A. No person shall own or possess a dog within the Village unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and the laws of the Village.
- B. Within the Village all dogs that are four (4) months of age or older shall be licensed unless they are otherwise exempted. No license shall be required for any dog which is under the age of four months and which is not at large.
- C. The owner of each dog required to be licensed shall obtain, complete and return to the Village Clerk a dog license application together with the license application

fee, any applicable license surcharges and such additional fees as may be established by the Village or New York State.

**§ 42-6. Licenses issued by Animal Shelters and Pounds.**

The Village does not allow the licensing of dogs by a shelter or pound. The shelter or pound must send the adoptive dog owners to the Clerk of the Village of Pelham where the dog will be harbored for licensing or to the Clerk of the municipality, where the shelter or pound is located for the purchase of the license for adoption purposes.

**§ 42-7. Licensing Grace Period for Dogs licensed in New York City or Outside New York State**

Any dog harbored within the Village which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this chapter.

**§ 42-8. Proof of Vaccination against Rabies.**

Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.

**§42-9. Term of License and Renewals.**

Each license issued pursuant to this chapter shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued.

**§42-10. Fees.**

The Board of Trustees of the Village of Pelham is authorized to establish by resolution a schedule of fees for dog licenses, enumeration, and tag replacement. The Board of Trustees may exercise this authority as needed throughout the year.

**42-11. Issuance of license; identification tag.**

A. Upon validation by the Village Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Village. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

B. No license shall be transferable. When the ownership of any dog is transferred, 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

1. Upon the transfer of ownership of any dog, the new owner shall immediately make an application for a license for such dog.
2. The owner of record of any dog that has been assigned an official identification number shall notify the Village Clerk of any change in the ownership of the dog and of any change of address of the owner of record. The owner of record shall make the notification within ten days of the change.
3. If any dog that 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 Village Clerk.
4. In the case of a dog's death, the owner of record shall so notify the Village Clerk either prior to renewal of license or upon the time of such renewal.

D. Identification tag.

1. The Village Clerk shall assign a Village 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 except for the circumstances set forth in Subsection 2 of this Subsection.
2. While a dog is participating in a dog show, the dog is not required to wear its identification tag.
3. The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
4. It is illegal to affix a tag carrying an identification number to the collar of any dog other than the one to which the number has been assigned
5. When a dog is first licensed, the Village will provide the dog's owner with one identification tag. If the identification tag is lost or stolen, the owner must apply to the Village for a replacement identification tag and pay the fee for the replacement identification tag.

**§42-12. Dogs must be restrained.**

- A. Every dog owner must restrain his or her dog by a chain or leash not exceeding six feet in length on any street, in any public place, and on private property not

owned or leased by the dog's owner unless the dog's owner has received informed consent from the property's owner, lessee, or their authorized agent.

B. Exempt from this subsection are a police dog in the act of doing police work and a guide dog actually leading a blind or otherwise impaired person.

### §42-13. Penalties for violations of Article II.

A violation of this article shall be punishable by a fine of not less than twenty-five (25) dollars with the following exceptions:

A. When a person is found to have violated this article, Article 7 of the Agriculture and Markets Law or former Article 7 of the Agriculture and Markets Law within the preceding five years, the fine may not be less than fifty (50) dollars, and

B. When the person is found to have committed two or more such violations within the preceding five (5) years, it shall be punishable by a fine of not less than one hundred (100) dollars or imprisonment for not more than fifteen (15) days, or both.

## ARTICLE III ADDITIONAL LOCAL LAWS

### § 42-4 § 42-14 Restrictions.

No owner of any dog, unless the dog is or has been lost, such loss was promptly reported to the police and a reasonable search has been made, shall permit such dog to:

~~A. Run at large in any street or in any public place unless restrained by a chain or leash not exceeding six feet in length.~~

~~B. A. Be on any playground or school property whether or not restrained by a chain or leash.~~

~~C. B. Defecate on any sidewalk, driveway, public park, playground or school property or on private property.~~

~~D. C. Chase or harass any person in such a manner as to put such person in reasonable apprehension of bodily harm or injury.~~

~~E. D. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.~~

~~F. E.~~ Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.

~~G. E.~~ 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.

~~H. G.~~ Be tied or fastened to any tree, hedge, post or other stanchion upon any highway or sidewalk.

#### **§ 42-15 Removal of filth.**

~~It shall be the duty of any Every person who owns, harbors or has the custody or control of any dog must immediately to remove any feces left by such dog on any sidewalk, walk, driveway, gutter, street, public park, playground or other public place or on school property or on private property without the consent of the owner of such property; This section shall not apply to a blind person. provided that this provision shall not be applicable to a blind person while actually using a guide dog licensed as such. Failure to remove and dispose of such filth, except as provided above, shall render such person liable for the penalties provided in this chapter.~~

#### **~~§ 42-6 Keeping of certain dogs prohibited.~~**

~~It shall be unlawful for any person to own, keep or harbor within the Village:~~

~~A. A vicious dog.~~

~~B. An unlicensed dog.~~

#### **§42-16. Certain dogs prohibited.**

It is illegal for any person to own, keep, or harbor a vicious dog in the Village.

#### **§ 42-17 Penalties for offenses.**

A. Any neglect, failure or refusal to comply with any provision of this ~~chapter~~ article shall be deemed a violation thereof.

B. Anyone who commits or is an accessory to the commission of a violation of this chapter article shall be subject to a fine of no less than \$40 and no more than \$250.

~~§ 42-8 When effective.~~

~~This chapter shall take effect immediately upon its filing with the Secretary of State.~~

**§42-18. Severability Clause.**

The provisions of this chapter 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 parts of this chapter.

2/7/11