

ORDINANCE 276

AN ORDINANCE RELATING TO PROCEDURES FOR LICENSING AND CONTROL OF DOGS, AND REPEALING ORDINANCES NO. 115, 139, 169 AND 244 OF THE VILLAGE OF LOCH ARBOUR.

Be it ordained BY THE Board of Trustees of the Village of Loch Arbour as follows:

Section I - Definitions:

Animal Control Officer - any person or organization designated by the Board of Trustees as a dog warden or dog control officer, including but not limited to, any Law Enforcement officer under contract to the Village of Loch Arbour, personnel of the Monmouth Regional Health Commission No. 1 or the Associated Humane Societies.

Domestic Animal - means any dog, cat or livestock other than poultry.

Dog - means any dog, bitch or spayed bitch.

Dog of licensing age - means any dog which has attained the age of seven months or which possesses a set of permanent teeth.

Kennel - means any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

Owner - when applied to the proprietorship of a dog, shall include every person having a right of property in such dog and every person who has such dog in his keeping

Pet shop - means any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed.

Potentially dangerous dog - means any dog or dog hybrid declared potentially dangerous by municipal court pursuant to this act and/or state statute.

Pound - means an establishment for the confinement of dogs seized either under the provisions of this act or otherwise.

Running-at-large - means a dog not on a leash and under control of owner or family member of the owner.

Shelter - means any establishment where dogs are received, housed and distributed without charge.

Vicious dog - means any dog which at any time without provocation has bitten a human being; either while upon or off the premises occupied by the person owning, keeping harboring or having the custody or possession of such attacking dog; or any dog or dog hybrid declared vicious by a municipal court pursuant to this Ordinance and/or state statute.

Section II. - License Required:

Every person who shall own any dog within the limits of the Village of Loch Arbour shall obtain a license from the Village Clerk for each such dog, and a numbered registration tag shall be issued for each dog so licensed.

No more than four (4) dogs of licensing age shall be kept, maintained or harbored at any one time in any residential housing unit or its grounds.

Section III. - License Fee, Registration Fee and Tag Provision

a. License fee:

- (1) Each applicant for a license pursuant to the provisions herein shall pay a fee of Six Dollars (\$6.00) to the Village Clerk for each license issued. A license shall only be issued to persons who provide proof of a valid rabies inoculation pursuant to state law.
- (2) "Potentially dangerous dog" license fee - the sum to be paid annually for a "potentially dangerous dog" license and each renewal thereof shall be Seven Hundred Dollars (\$700.00).

b. Registration fee:

- (1) Each application shall also pay a fee of One Dollar (\$1.00) to the Village Clerk as a registration fee for each dog. The Village Clerk shall maintain a book for the purpose of registering the name and address of the owner of the dog sought to be licensed; the name, breed, sex, markings and age of each dog registered numbered in the order in which the application was made.
- (2) A potentially dangerous dog registration number shall be issued to any dog deemed to be potentially dangerous.

c. Tag provision:

- (1) The registration number issued by the Village Clerk for each licensed dog shall be on a metal tag, which tag shall be securely attached to a strap or collar worn around the neck or boy of each licensed dog. Each tag shall have marked on it the words "Loch Arbour", the number of the tag and the year for which the tag was issued.
- (2) A red identification tag shall be issued to a dog declared potentially dangerous.

d. Fee waiver:

Dogs used as guides for blind persons and commonly known as "seeing eye" dogs shall be licensed and registered as other dogs hereinbefore provided for except that the owner or keeper of such dog shall not be required to pay any fee therefore.

Section IV. - Compliance Dates:

Any owner of a dog in the Village of Loch Arbour who shall neglect or refuse to obtain a license in the manner herein provided on or before the 31st day of January in each year shall be guilty of a violation of this section; provided, however, that any dog owner bringing a dog into the Village in any year, who shall obtain a proper license within ten (10) days thereafter, shall be deemed to have complied with this section.

Section V. - Regulations:

a. Running-at-large:

No person owning, keeping or harboring any dog shall suffer or permit it to run at large at any time within the limits of the Village.

b. Leashing:

No dog shall be permitted off the premise of the person owning, keeping or harboring it unless accompanied by a person who is capable of controlling it and who has the dog securely confined and controlled by an adequate leash or chain not more than six (6') long.

c. Property damage:

No person owning, keeping, harboring walking or in charge of any dog shall cause, suffer, permit or allow such dog to any injury or to do any damage to any lawn, shrubbery, flowers, grounds or property of persons in the Village other than the owner or person having the care, custody or control of such dog.

d. Kennels prohibited:

No person shall at any time maintain a kennel or kennels or similar structure or structures for the purpose of boarding, raising, breeding, training or otherwise dealing in dogs.

e. Soiling or defilement by dog:

No person owning, keeping, harboring, walking or in charge of any dog shall cause, suffer, permit or allow such dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, street, sidewalk, passageway, road, bypath, play area, park or any place where people congregate or walk, or upon any boardwalk, benches or beachfront in this Village, or upon any public property whatsoever, or upon any private property without the permission of the owner of the private property. If any such person shall permit such dog to soil, defile, defecate on or commit any nuisance on the area aforesaid, he or she shall immediately remove all feces and droppings deposited by such dog, which removal shall be in a sanitary manner by shovel, container, disposal bag, etc. and the feces and droppings shall be removed by the person from the aforesaid areas and disposed of by the person in a sanitary manner.

f. Nuisance:

No dog owner shall suffer or permit his or her dog to annoy neighbors or other persons living within the Village by interfering with the enjoyment of their property, interfering with their sleep or rest or otherwise annoying them in the enjoyment of their property in a substantial manner, by barking or howling.

Section VI. - Complaints:

In any proceeding before the Municipal Court Judge upon a Complaint duly made and filed in the Municipal Court, if the Court shall find that the dog in question has committed the prohibited act as set forth herein, then there shall be the presumption that the defendant owner, possessor or harbinger has suffered or permitted said dog to commit the prohibited act alleged in the Complaint, and it shall not be necessary that the Complainant prove the defendant's knowledge or intent.

Section VII. - Provisions for Impoundment, Seizure and Disposition

An animal control officer shall seize and impound a dog when the officer has reasonable cause to believe that the dog:

- a. attacked a person and caused death, or serious bodily injury as defined in N.J.S. 2C:11-1 (b) to that person;
- b. caused bodily injury as defined in N.J.S. 2C:11-1 (a) to a person during an unprovoked attack and poses a serious threat of harm to persons or domestic animals;
- c. engaged in dog fight activities as described in R.S.4:22-24 and R.S.4:22-26; or
- d. has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons and domestic animals.
- e. Any dog not licensed or registered pursuant to the provisions of this Section III (a) or Section III (b) or in violation of Section V (a).

The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal health officer, the dog may be impounded in a facility or other structure agreeable to the owner.

- f. The animal control officer shall notify the municipal court and the municipal health officer immediately that he has seized and impounded a dog pursuant to Section VII of this Ordinance or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required, the animal control officer shall through a reasonable effort attempt to determine the identity of the owner of any dog seized and impounded pursuant to Section VII of this Ordinance. If its owner cannot be identified within seven (7) days, that dog may be humanely destroyed.
- g. The animal control officer shall, within three working days of the determination of the identity of the owner of the dog seized and impounded pursuant to this Ordinance, notify by certified mail, return receipt requested, the owner concerning the seizure and impoundment and that, if the owner wishes, a hearing will be held to determine whether the impounded dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven (7) days by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or so refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within seven (7) days of receipt, the dog may be humanely destroyed.
- h. Any dog not deemed to be vicious or potentially dangerous pursuant to this ordinance may be redeemed upon the payment of the sum of any and all licensing and registration fees that may be required together with the sum of \$75.00 per day for the maintenance for each day that the dog is kept in the pound and other required or permitted fees as may be set forth in the Contract between the Village and the dog pound, provided, however, that such redemption must be made within seven (7) days of the impounding or seizure of any dog as provided in this Ordinance.

Section VIII - Finding to Declare Dog Vicious

- a. The municipal court shall declare the dog vicious if it finds by clear and convincing evidence that the dog:
 1. killed a person or caused serious bodily injury as defined in N.J.S. 2C:11-1(b) to a person; or
 2. has engaged in dog fighting activities as described in R.S.4-22-24 and R.S.4:22-26.
- b. A dog shall not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S. 2C:11-1 (b) upon a person if the dog was provoked. The municipality shall bear the burden of proof to demonstrate that the dog was not provoked.
- c. If the municipal court declares a dog to be vicious, and no appeal is made of this ruling, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

Section IX - Finding to Declare Dog Potentially Dangerous

- a. The municipal court shall declare the dog to be potentially dangerous if it finds by clear and convincing evidence that the dog:
 1. caused bodily injury as defined in N.J.S. 2C:11-1 (a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person; or
 2. killed another domestic animal; and
 - (a) poses a threat of serious bodily injury or death to a person;
 - (b) poses a threat of death to another domestic animal; or
 3. has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.
- b. A dog shall not be declared potentially dangerous for:
 1. causing bodily injury as defined in N.J.S. 2C:11-1 (a) to a person if the dog was provoked; or
 2. killing a domestic animal if the domestic animal was the aggressor.

For the purpose of paragraph (1) of this section, the municipality shall bear the burden of proof to demonstrate that the dog was not provoked.

Section X - Order and Schedule for Compliance with Potentially Dangerous Dog

If the municipal court declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance, which, in part:

- a. shall require the owner to comply with the following conditions:
 1. to apply, at his own expense, to the Village Clerk for a special municipal potentially dangerous dog license, municipal registration number, and red identification tag issued pursuant to this Ordinance. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number and red identification tag;
 2. to display, in a conspicuous manner, a sign on his premises warning that a potentially dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosures required in paragraph (3) of this section;
 3. to immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by a least three feet from the confined area. The owner of the potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether not more than four (4) feet in length and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius

of no more than three feet from the owner and under the direct supervision of the owner;

4. The animal control officer shall inspect the enclosure and the owner's property at least monthly to determine continuing compliance with this Ordinance.
- b. may require the owner to maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other home owner policy, shall contain a provision requiring the municipality in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

Section XI - Procedure for Appeal

The owner of the dog, or animal control officer in the municipality in which the dog was impounded, may appeal any final decision, order or judgment, including any conditions attached thereto, of a municipal court pursuant to this Ordinance by filing an appeal with the Superior Court, Law Division, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to appeals from courts of limited jurisdiction. The Superior Court shall hear the appeal by conducting a hearing de novo in the manner established by those rules for appeals from the court of limited jurisdiction.

Section XII - Liability of Owner for Costs of Impoundment and Destruction

- a. If a dog is described vicious or potentially dangerous, and all appeals thereto have been exhausted, the owner of the dog shall be liable to the municipality in which the dog is impounded for the costs and expenses of impounding and destroying the dog. Costs of impoundment shall be a maximum of \$100.00 per day for each day of impoundment; cost of destroying the dog shall be a maximum of \$1,000.00. The owner shall incur the expense of impounding the dog in a facility other than the municipal designated pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.
- b. If the dog has bitten or exposed a person within ten (10) days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

Section XIII - Right to Convene Hearing for Subsequent Action of Dog

If the municipal court finds that the dog is not vicious or potentially dangerous, the municipal court shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog.

Section XIV - Duties of the Owner of Potentially Dangerous Dog

The owner of a potentially dangerous dog shall:

- a. comply with the provisions of this Ordinance in accordance with a schedule established by municipal court, but in no case more than 60 days subsequent to the date of determination.
- b. notify the Village Clerk, Police Department, the Department of Health and the animal control officer if a potentially dangerous dog is at large, or has attacked a human being or killed a domestic animal;
- c. notify the Village Clerk, Police Department, the Department of Health and animal control officer within 24 hours of the death, sale or donation of a potentially dangerous dog;
- d. prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;
- e. upon the sale or donation of the dog to a person residing in a different municipality, notify the Municipal Clerk, Police Department, the Department of Health and the animal control officer of the transfer of ownership and the name, address, telephone number of the new owner; and
- f. in addition to any license fee required pursuant to Section III.a(1), pay a potentially dangerous dog license fee as required pursuant to Section III.b(2) of this Ordinance.

Section XV - Violations by Owners, Penalties; Enforcement; Seizure and Impoundment of Dog; Destruction by Order of the Court

- a. Any person who shall violate Section II, Section III, Section IV, Section V and/or Section XVI of this Ordinance shall be liable to a penalty of not more than \$250.00 per day, and each day's continuance of the violation shall constitute a separate and distinct violation.
- b. The owner of a potentially dangerous dog who is found to have violated this Ordinance or have failed to comply with a court's order shall be subject to a fine of not more than \$1,000.00 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction to enforce this Ordinance. An animal control officer is authorized to seize and impound any potentially dangerous dog.

Section XVI - Hindrance or Interference with Performance of Official Duties

No person shall hinder, molest or interfere with anyone authorized to perform any duties under this Ordinance.

Section - XVII

Ordinance No. 115, 139, 169 and 244 of the Village of Loch Arbour are hereby repealed.

Section XVIII

If any section, clause or provision of this Ordinance shall be adjudged invalid, such invalidity shall apply only to the section, clause or provision and the remainder of the Ordinance shall be deemed valid and effective.

Section XIX

This Ordinance shall become effective upon its final passage and publication.

CERTIFICATION

I, LORRAINE CARAFA, CLERK OF THE VILLAGE OF LOCH ARBOUR, do hereby certify that the above is a true and exact copy of the Ordinance adopted by the Trustees of the Village of Loch Arbour after a public hearing thereon the 8th day of October, 1997

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