

## NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board of the Town of Cornwall will hold a public hearing on the 13th day of February, 2012 at 7:15 o'clock p.m., at Town Hall, 183 Main Street, Cornwall, New York, on proposed Local Law No. 1 of the Year 2012 entitled: A Local Law Repealing and Re-enacting Town Code Chapter 77 entitled "Dogs".

The purpose of this Local Law is to better protect the health, safety and well-being of citizens of the Town of Cornwall by clarifying and expanding the provisions of Town Code Chapter 77 regulating the licensing and control of dogs.

A copy of the proposed local law is on file in the office of the Town Clerk and available for inspection by interested persons during Town Clerk's business hours.

The Town Board will at the above date, time and place hear all persons interested in the subject matter hereof. Persons may appear in person or by agent. All written communications addressed to the Board must be received by the Board at or prior to the public hearing.

BY ORDER OF THE TOWN BOARD  
TOWN OF CORNWALL  
ELAINE TILFORD SCHNEER  
TOWN CLERK

Dated: January 12, 2012

SJG/ef/195972  
254-6400303  
1/12/12

**Local Law Filing**

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one)  
 of CORNWALL

Local Law No. 1 of the year 2012  
 A local law repealing and re-enacting Town Code Chapter 77 entitled "Dogs"

Be it enacted by the TOWN BOARD  
(Name of Legislative Body)  
 of the \_\_\_\_\_

County  City  Town  Village  
(Select one)  
 of CORNWALL as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**SECTION 1. TITLE**

This local law shall be known as "A Local Law Repealing and Re-enacting Town Code Chapter 77 entitled 'Dogs'."

**SECTION 2. PURPOSE AND FINDINGS**

The purpose of this Local Law is to better protect the health, safety and well-being of citizens of the Town of Cornwall by clarifying and expanding the provisions of Town Code Chapter 77 regulating the licensing and control of dogs.

**SECTION 3. AMENDMENT OF THE TOWN CODE.**

Town Code Chapter 77 is hereby repealed in its entirety and re-enacted to read follows:

**CHAPTER 77**

**DOGS**

**Article I : Purpose and Definitions.**

**§77-1. Purpose.**

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, damage, habitual barking and other detrimental impacts within the unincorporated area of the Town of Cornwall.

**§77-2. Definitions.**

As used in this Chapter, unless otherwise expressly stated, the following words shall have the meanings indicated:

**ADOPTION**

The delivery of any dog seized or surrendered to any natural person eighteen (18) years of age or older, for the limited purpose of harboring a pet.

**AT LARGE**

Any dog that is unleashed and on property open to the public or is unleashed and on private property not owned or leased by the owner of the dog, unless permission for such presence has been obtained from the owner or lessee of the property.

**DETECTION DOG**

Any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

**DOG CONTROL OFFICER**

Any individual appointed by the Town of Cornwall to enforce this Chapter.

**EUTHANIZE**

To bring about death by a humane method.

**GUIDE DOG**

Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the Town of Cornwall during the period such dog is being trained or bred for such purpose.

**HARBOR**

To provide food or shelter to any dog.

**HEARING DOG**

Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the Town of Cornwall during the period such dog is being trained or bred for such purpose.

**IDENTIFICATION TAG**

A tag which sets forth an official identification number as required by the provisions of this Chapter.

**IMPOUND**

Seizing a dog and placing it in a pound or shelter.

**OWNER**

Any person who is the legal owner of a dog or who harbors a dog. In the event any dog found to be in violation of this Chapter shall be owned by a person less than eighteen (18) years of age, the owner shall be deemed to be the parent or guardian of such person or the head of the household in which said person resides.

**POLICE WORK DOG**

Any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

**POUND or SHELTER**

An establishment for the confinement of dogs seized either under the provisions of this Chapter or otherwise.

**SERVICE DOG**

Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.

**THERAPY DOG**

Any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the Town of Cornwall during the period such dog is being trained or bred for such purpose.

**WAR DOG**

Any dog which has been honorably discharged from the United States armed services.

**WORKING SEARCH DOG**

Any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the State of New York; provided, however, that such services provided by said dog shall be performed without charge or fee.

**§77-3 Exemption.**

A. Article II of this Chapter shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a Class A dealer under the Federal Laboratory Animal Welfare Act, provided that such person, firm or corporation has obtained a certificate of exemption from the Town Clerk. Application for such certificate shall be made annually to the Town Clerk and shall be accompanied by a fee of \$250.

**Article II : Licensing of Dogs**

**§77-4 Licensing of dogs; rabies vaccination requirement.**

**A. Licensing of dogs.**

- (1) The owner of any dog harbored within the Town of Cornwall reaching the age of four (4) months shall immediately make application under this Chapter for a dog license. No license shall be required for any dog which is under the age of four months.
- (2) Dogs of any age which are held at a pound or shelter pursuant to a contract or agreement with any county, city, town, village or duly incorporated society for the prevention of cruelty to animals, humane society or dog protective association do not have to be licensed until such time as they are adopted.
- (3) Application for a dog license for any dog harbored within the Town of Cornwall shall be made to the Town Clerk of the Town of Cornwall.

(4) Applications for a dog license shall state the sex, actual or approximate age, breed, color, and official identification number of the dog, if any, and other identification marks and the name, address, telephone number, county and town of the residence of the owner.

(5) The application shall be accompanied by the license fee prescribed by §77-5 of this Chapter and a certificate of rabies vaccination or statement in lieu thereof, as required by this section. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the clerk. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in §77-5 of this Chapter.

(6) Upon validation by the clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund of the application fee shall be made.

(7) The Town Clerk shall:

- (a) Provide a copy of the license to the owner;
- (b) Retain a record of the license.

(8) Except as otherwise provided in this subsection, a license shall be issued or renewed for a period of one (1) year, and provided further, no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided in Subsection A(5) of this

section, a license shall be issued or renewed for a period of one (1) year from the date of said statement.

**§77-5 License fees.**

A. The license fee for each dog license issued pursuant to §77-4 shall be as determined by the Town Board of the Town of Cornwall in a Schedule of Fees adopted by resolution.

B. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog," "Working Search Dog," "War Dog," "Detection Dog," "Police Work Dog," or "Therapy Dog."

**§77-6 Identification of dogs.**

A. Each dog licensed pursuant to §77-4 of this Chapter shall be assigned, at the time the dog is first licensed, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.

B. The official 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.

C. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

D. The shape, size and form of imprints on identification tags shall be prescribed by the Town of Cornwall, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this Chapter.

**§77-7 Notification of Town Clerk of change of ownership.**

A. In the event of a change in the ownership of a dog which has been assigned an official identification number, the owner of record shall, within ten (10) days, file with the Town Clerk a written report of such event. Until such filing is made or until the dog is licensed in the name of the new owner, the owner of record shall be liable, along with the new owner, for any violation of this Chapter.

**Article III : Dog Control.**

**§77-8 Unlicensed, unidentified and misidentified dogs prohibited.**

A. It shall be a violation of this Chapter for any person owning or harboring a dog that is required to be licensed under §77-4 to fail to license such dog and keep such license in effect.

B. It shall be a violation of this Chapter to fail to comply with the identification requirements of §77-6.

C. It shall be a violation of this Chapter to knowingly affix to any dog any false or improper identification tag.

**§77-9 Running at large prohibited; dogs to be leashed.**

A. No person owning, harboring or having possession of any dog, whether licensed or not, shall permit such dog to be at large as defined in this Chapter.

**§77-10 Habitual barking prohibited.**

A. For purposes of this Chapter "habitually bark" shall mean barking, howling and/or whining for repeated intervals of at least ten minutes with less than four-minute interruption, which can be heard by any person, including a law enforcement officer or dog control officer, from a location outside of the dog owner's or harboring's premises.

B. No person within the Town of Cornwall shall allow his or her dog to habitually bark.

C. Any person disturbed by a habitually barking dog may file a written complaint against the individual owning or harboring

the dog, or both. The complaint shall be filed with the Town Police.

D. Upon receipt of a complaint of a habitually barking dog, the Town Police and/or the Town Dog Control Officer shall investigate the complaint and, upon finding that probable cause exists for such complaint, shall cause prosecution to be commenced against the person owning or harboring the dog, or both, in the Town Justice Court for violation of this Chapter.

**§77-11 Curbing of dogs required.**

A. No person shall allow any dog in his possession to defecate on any public road, or any town-owned lands, including but not limited to town parks, town sidewalks and town parking lots unless the person in possession shall immediately remove the feces defecated by the dog and dispose of the same in an appropriate and sanitary manner such as flushing the same down a sanitary sewer system or placing it in a waste disposal receptacle.

B. No person shall allow any dog in his possession to defecate or urinate on any privately owned lands unless he has the permission of the owner or tenant of the property for such use.

**§77-12 Chasing cars, bicycles and pedestrian's prohibited.**

A. No person owning, harboring or having possession of any dog shall allow it to chase motor vehicles, bicycles or pedestrians.

**§77-13 Confinement of dogs in heat.**

A. No person owning, harboring or having possession of a female dog which is in heat (estrus) shall allow such dog to be outside the residence of such person in an unfenced area.

**§77-14 Animal cruelty prohibited.**

A. No person owning, harboring or having possession of a dog shall fail to provide clean drinking water and substantial food during any continuous twenty-four hour period.

B. No person owning, harboring or having possession of a dog shall fail to provide and maintain adequate shelter from

weather elements, including cold, heat, wind and precipitation. Such shelter shall be of sufficient size for the dog to allow it to stand, turn around and lay in without being exposed to the weather.

**Article IV : Enforcement.**

**§77-15 Complaints.**

A. All complaints regarding violations of this Chapter, dangerous dogs under the New York State Agriculture & Markets Law, and other such complaints regarding dogs shall be submitted in writing to the Town Police Department. Such complaint should specify the nature of the violation, the date thereof, a description of the dog and residence and, if known, of the owner of such dog. The Town Police and/or the Town Dog Control Officer shall thereafter take appropriate action pursuant to this Chapter, the Agriculture and Markets Law or any other applicable laws in effect.

**§77-16 Commencement and Prosecution of Enforcement Proceedings.**

A. Pursuant to Town Law §65, the Town authorizes the Dog Control Officer and the Town Police Department to institute and prosecute legal proceedings in the name of the Town under this Chapter and all applicable provisions of the New York State Agriculture & Markets Law pertaining to dangerous dogs and dog control.

B. A Dog Control Officer or a police officer of the Town of Cornwall shall have the power to issue an appearance ticket pursuant to §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 Chapter or the New York State Agriculture & Markets Law.

**§77-17 Seizure of dogs; redemption periods; impoundment fees; adoption of dogs.**

A. Under §118 of the Agriculture and Markets Law and the provisions of this Chapter, the Dog Control Officer or any police officer shall seize:

- (1) Any dog which is not licensed that is required to be licensed under the provisions of this Chapter.

(2) Any dog, licensed or unlicensed, which does not have on its identification tag and which is not on the owner's premises or engaged in participation in a dog show.

(3) Any dog running at large under the provisions of this Chapter.

(4) Any dog for which there is probable cause to believe that the dog is a dangerous or vicious dog or which poses an immediate threat to public safety.

(5) Upon order of the Town Justice, any dog for which there has been a prior adjudication of a habitual barking violation under this Chapter and for which the Town Dog Control Officer or the Town Police have probable cause to believe that a repeat violation of the prohibition on habitual barking has occurred.

B. The Dog Control Officer or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

C. Promptly upon seizure of any identified dog, the owner of record at the last known address of such dog shall be notified personally or by certified mail, return receipt requested, of the fact of seizure, and the procedure for redemption.

D. Promptly upon seizure of any identified dog, the Dog Control Officer or police officer shall commence and prosecute appropriate judicial proceedings in regard to the offense or violation which gave rise to the impoundment.

E. Upon seizure of a dog which is not identified, whether or not licensed, the dog shall be held for such a period of time as is consistent with the provisions of the New York State Agriculture & Markets Law and shall thereafter put up for adoption or euthanized.

F. Each dog seized in accordance with the provisions of this Chapter shall be properly sheltered, fed, provided medical care if necessary and watered for such a redemption period as is consistent with the provisions of the New York State Agriculture & Markets Law.

G. An owner shall forfeit all right to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized.

H. No dog in the custody of a pound or shelter shall be delivered for adoption unless it has been licensed pursuant to the provisions of this Chapter prior to its release from the custody of a pound or shelter.

I. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees as set forth in the Chapter whether or not such owner chooses to redeem his or her dog.

J. All adopted dogs shall be spayed or neutered before release from custody at the owner's expense.

K. No liability in damages or otherwise shall be incurred by the Town of Cornwall on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this Chapter.

#### Article V : Penalties.

#### §77-18 Penalties for offenses.

A. A violation of any section of this Chapter shall be punishable by:

- (1) Where prosecuted pursuant to the Penal Law, a fine of not less than \$100 nor more than \$250, or imprisonment for not more than 15 days, or both; or
- (2) Where prosecuted as an action to recover a civil penalty, by a civil penalty not to exceed \$1,000.

B. In the case of failure to curb a dog, a fine to the owner or harborer of the dog shall be as follows:

- (1) Not less than \$50 nor more than \$75 for the first offense.
- (2) Not less than \$75 nor more than \$100 for the second offense.
- (3) Not less than \$100 nor more than \$200 for each additional offense.

**SECTION 4. SEVERABILITY**

If any clause, sentence, paragraph, word, section or part of this local law shall be judged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

**SECTION 5. EFFECTIVE DATE**

This local law will take effect immediately upon filing in the Office of the Secretary of State in Albany.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)  
I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2012 of the (County/City/Town/Village) of CORNWALL TOWN BOARD on 2012, in accordance with the applicable provisions of law.
2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*)  
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County/City/Town/Village) of \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) \_\_\_\_\_ and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.
3. (Final adoption by referendum.)  
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County/City/Town/Village) of \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) \_\_\_\_\_ (repassed after disapproval) by the (Elective Chief Executive Officer) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.
4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)  
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County/City/Town/Village) of \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) \_\_\_\_\_ (repassed after disapproval) by the (Elective Chief Executive Officer) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body; the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)  
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)  
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)  
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 \_\_\_\_\_ above.

Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body  
KELINE TILFORD SCHNEER, TOWN CLERK  
Date: \_\_\_\_\_

(See)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature \_\_\_\_\_  
STEPHEN J. GABA, ATTORNEY  
Title \_\_\_\_\_

County \_\_\_\_\_  
City of \_\_\_\_\_  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: \_\_\_\_\_