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

~~County~~
~~City~~
Town of KENDALL, ORLEANS COUNTY, NEW YORK
~~Village~~

Local Law No. 3 of the year 20 06

A local law PROVIDING FOR THE CONTROL, CONFINING AND LEASHING OF DOGS IN THE TOWN OF Kendall

Be it enacted by the Town Board of the

~~County~~
~~City~~
Town of Kendall, Orleans County, New York as follows:
~~Village~~

- SECTION 1. PURPOSE: The Town Board of the Town of Kendall finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this local law 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 Town of Kendall.
- SECTION 2. AUTHORITY: This local law is enacted pursuant to Section 124 of Article 7 of the Agriculture and Markets Law of the State of New York.
- SECTION 3. TITLE: This law may be referred to as the "Dog Control Law of the Town of Kendall".
- SECTION 4. DEFINITION OF TERMS: As used in this local law, the following words shall have the following respective meanings:
- A. Agriculture and Markets Law: The Agriculture and Markets Law of the State of New York in effect as of the effective date of this local law and as amended thereafter.
 - B. Confined: That such animal is securely confined or restrained and kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape there from.
 - C. Dangerous Dog: In addition to the definition of a dangerous dog under the provisions of Section 109(24) of the Agriculture and Markets Law of the State of New York, a dog shall be considered a dangerous dog, subject to the provisions of this local law and of Section 121(3)

of the Agriculture and Markets Law if such dog, without justification or provocation, attacks a person or domestic animal or causes physical injury or death to such animal.

- D. Dog: Shall mean male and female, licensed and unlicensed, members of the Species Canis Familiaris.
- E. Dog Control Officer: Any person authorized by the Orleans County Legislature or the Town Board of the Town of Kendall from time to time to enforce the provisions of this local law or the provisions of the Agriculture and Markets Law.
- F. Owner: The party purchasing the license, unless such dog is or has been lost, and such loss reported to the dog warden and reasonable search made. If an animal is not licensed, the term owner shall designate and cover any person or persons, firm, association or corporation, who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the Town. Any person owning or harboring a dog of one (1) week period prior to the filing of any complaint charging a violation of this local law shall be held and deemed to be the owner of such dog for the purpose of this local law. In the event any dog found to be in violation of this chapter shall be owned by a minor, the head of household in which said minor resides shall be deemed to have custody and control of said dog and in violation of this local law.
- G. Recreational Areas: Recreational areas shall mean any real property owned by the Town of Kendall which is used for recreational purposes by the public including, but not limited to, parks or play grounds.
- H. Run at Large: Run at large shall mean 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 permission for such presence has been obtained. No dog shall be deemed to be running at large if it is (a) accompanied by and under the immediate supervision and control of the owner or other responsible person; or (b) a service dog; or (c) accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on un-posted land or on posted land with the owner's written permission.
- I. School Premises: Any real property situate within the Town of Kendall, which is used for educational purposes or purposes incidental thereto.
- J. Service Dog: Guide dog or other such dogs that are documented or certified to perform certain services for said owner such as a guide dog, police dog, security dog or other such dogs.
- K. Town: Shall designate the area within the territorial limits of the Town of Kendall

SECTION 5

RESTRICTIONS: It shall be unlawful for any owner of any dog in the Town of Kendall to permit or allow a dog:

- A. To run at large (sec. 4/H) unless the dog is restrained by an adequate leash or unless it is accompanied by owner or a responsible person able to control it by command. The use of an electronic training collar may be considered to be in the control by owner. A dog controlled by wireless containment system or electronic training collar does not release an owner of responsible restraint of said animal. For the purpose of this local law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.
- B. To engage in habitual loud howling, barking, crying or whining or conduct itself in a manner so as to unreasonably and habitually disturb the comfort or repose of another person other than the owner of such dog. This is not meant to restrict the use of obayingö dogs when hunting and in the pursuit of wild game.
- C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property not belonging to the owner of such dog.

- D. To chase, jump upon, or otherwise harass any person in such manner as to cause intimidation, fear or place such person in reasonable apprehension of bodily harm or injury. This provision shall not apply to a guide dog or dogs trained for security purposes when performing such functions.
- E. To habitually chase, run alongside or bark at motor vehicles, pedestrians or cyclists while on a public street or highway or upon public or private property other than property of owner of dog or one harboring said dog.
- F. To create a nuisance by defecating, urinating or digging on public property or private property not of said owner.
- G. When in heat to run at large. Such female dog shall be confined to the owner's premises during this period.
- H. To be at large on any school premises.
- I. To be within recreation areas or the sidewalks adjacent thereto unless said dog is controlled by restrictive and adequate leash.
- J. To be at large if determined to be a dangerous dog with the meaning of section 4 (C) of this local law.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 5 of this local law shall be presumptive evidence against the owner or person harboring such dog that he or she has failed to properly confine, leash or control his or her dog.

SECTION 6. ENFORCEMENT: This local law shall be enforced by any dog control officer or peace officer when acting pursuant to his or her official duties.

SECTION 7. SEIZURE, IMPOUNDMENT, REDEMPTION AND ADOPTION

- A. Any dog found in violation of the provisions of Section 5 of this local law may be seized pursuant to the provisions of Section 118 of the Agricultural and Markets Law.
- B. Every dog seized shall be properly attended, sheltered, fed and watered for the redemption periods set forth in Section 118 of the Agriculture and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in Section 118 of said Article.
- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (C) of this Section 7 whether or not such owner chooses to redeem his or her dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanasia pursuant to the provisions of Section 118 of the Agriculture and Markets Law.
- F. No action shall be maintained against the Town of Kendall, any dog control officer or peace officer when acting pursuant to his or her special duties; or any other agent or officer of the Town or person under contract to the Town of Kendall to recover the possession or value of any dog; or damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this local law or the Agriculture and Markets Law.

SECTION 8. APPEARANCE TICKET: Any Dog Control Officer, Peace Officer or Police Officer when acting pursuant to his or her official duties, or Police Officer observing a violation of this local law in his or her presence shall issue and serve an appearance ticket for such violation

SECTION 9. COMPLAINT

- A. Any person who observes a dog in violation of this local law may file a complaint under oath with a Justice of the Town of Kendall 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 the dog.
- B. Upon receipt by the Town Justice of any such complaint, he/she shall summon the alleged owner to appear in person for a hearing; at which time both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he/she may order:
 - 1. The dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.
 - 2. The dog to be confined to the premises of the owner.
 - 3. Such other remedy as may be warranted by the circumstances in such case and authorized under the provisions of the Agriculture and Markets Law of the State of New York.
- C. A violation of any order issued by the Town Justice under the provisions of this Section 9 shall be an offense punishable, upon conviction thereof, as provided in Section 10 of this local law.

SECTION 10. PENALTIES: A violation of any provision of these regulations shall constitute a violation, and conviction thereof, may be punishable by a fine not to exceed \$350.00 or imprisonment not to exceed six (6) months or both upon first offense. A fine of not less than \$50.00 nor more than \$700.00, or imprisonment up to (6) months or both upon a second conviction within a five year period, and a fine of not less than \$200.00 nor more than \$1,000.00, or imprisonment up to six (6) months, or both, upon a third conviction within a five year period.

SECTION 11 SEPARABILITY: Each separate provision of this local law shall be deemed independent of all other provisions hereof, and if any such provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 12. REPEALER: this local law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Kendall which, upon the effectiveness of this local law, shall become null and void, including but not limited to Local Law No. 3 of the Year 1999 of the Town of Kendall.

SECTION 13. EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State of New York.