

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1991

No. 2

Introduced by Council Members Maloney, Foster, DeMarco and Leffler; also Council Members Alter, Fields, Greitzer and Horwitz.

A LOCAL LAW

To amend the administrative code of the City of New York, in relation to the regulation and harboring of dangerous dogs.

Be it enacted by the Council as follows:

Section one. Legislative findings. The City Council hereby finds that the regulation and control of dangerous dogs in New York City is a matter of vital concern, affecting the public health, safety and welfare of all New Yorkers. Experience from New York City and all across the United States has demonstrated that while most dogs make suitable pets, there are certain exceptionally dangerous and unpredictable dogs of various breeds. Once provoked, they become uncontrollable and lethal weapons, posing significant dangers to unsuspecting and innocent people. In the past four years, 28 Americans have been killed by dogs and countless others have been hurt and maimed. This year, people are dying as a result of dog attacks, at the rate of one or more a month, with children and elderly persons being the most frequent targets.

This law seeks to remedy this dangerous situation by regulating the ownership of dangerous dogs in New York City. Given the population of New York City, the Council believes that such a law is necessary to protect the health, safety and welfare of its residents.

§ 2. Title 17 of Chapter 3 of the administrative code of the City of New York is hereby amended by adding a new subchapter 6, to follow subchapter 5, to read as follows:

Subchapter 6

Dangerous Dog Regulation and Protection Law

§ 17-342 *Definitions. Whenever used in this subchapter, the following terms shall be defined as follows:*

a. "Person" means any individual, partnership, firm, joint stock company, corporation or employee thereof, or other legal entity, unless otherwise stated.

b. "Owner" means any person possessing, harboring, keeping, having an interest in, or having control or custody of a dog.

c. "Dangerous dog" means (1) any dog that when unprovoked, approaches, or menaces any person in a dangerous or terrorizing manner, or in an apparent attitude of attack, upon the streets, sidewalks, or any public grounds or places; or (2) any dog with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or (3) any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation

on public or private property; or (4) any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

d. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring either multiple stitches or cosmetic surgery.

e. "Unprovoked" means that the dog was not hit, kicked, taunted or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched or squeezed by a person.

§ 17-343 *Acquisition of a dangerous dog prohibited.* a. No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack human beings or domestic animals when not provoked.

b. No person shall sell, offer for sale, breed, buy or attempt to buy any dangerous dog within the City of New York.

§ 17-344 *Humane destruction.* The commissioner may order the humane destruction of any dog that kills or causes severe injury to a human being.

§ 17-345 *Determination of a dangerous dog.* The commissioner shall have the authority to make a determination that a dog is dangerous, as defined in subdivision (c) of section 17-342, upon the complaint of any person that a dog is dangerous. The commissioner shall make such determination after a hearing, written notice of which shall be given to the complainant and to the owner of the dog, within fifteen days after seizure when seizure of the dog has been ordered by the department, where the owner's address can be reasonably ascertained by the commissioner. The hearing shall be held no less than ten days nor more than twenty days after such notice is mailed to the owner of the dog. At such hearing all interested persons shall have the opportunity to present evidence on the issue of the dog's dangerousness. In the event that the dog in question has caused severe injury to any person, the commissioner may impound the dog, at the owner's expense, pending the hearing and determination of the complaint. If, after the hearing, the commissioner determines that the dog is dangerous, he or she may order the owner to comply with one or more of the following requirements, in any combination thereof:

a. *Registration.* The commissioner may order the owner of a dangerous dog to register such dog with the department. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color, and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner and any other information which the commissioner may require. The application for registration pursuant to this paragraph shall be accompanied by a registration fee of twenty-five dollars. Each dog registered pursuant hereto shall be assigned an official registration number by the department. Such registration number shall be inscribed on a metal tag which shall be attached to the dog's collar at all times. The tag and a certificate of registration shall be of such form and design and shall contain such information as the commissioner shall prescribe and shall be issued to the owner upon payment of the registration fee and the presentment of sufficient evidence that the owner has complied with all of the orders of the commissioner as prescribed at the determination hearing.

b. *Muzzling or confinement.* The commissioner may order the owner of a dangerous dog to muzzle the dog or confine the dog, at all times, indoors or in a proper enclosure for a dangerous dog which shall consist of a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, or any part of their bodies or other foreign objects, and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and prevent the dog from digging his way out through the bottom. The pen or structure

shall also provide the dog with protection from the elements. The owner shall also conspicuously display a sign designed with a warning symbol approved by the commissioner which indicates to both children and adults the presence of a dangerous dog, on the pen or structure and on or near the entrance to the residence where the dog is kept. At any time that the dog is not confined as required herein, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person, and kept on a leash no longer than six feet with the owner or some other responsible person attending such dog.

c. *Liability insurance.* The commissioner may order the owner of a dangerous dog to maintain, in full force and effect, a liability insurance policy of one hundred thousand dollars for personal injury or death of any person, resulting from an attack of such dangerous dog.

d. *Humane destruction.* The commissioner may order the humane destruction of any dog that kills or causes severe injury to a human being, based upon the severity of the injury and the circumstances of the injury.

e. *Other remedies.* The commissioner may order (i) that the dog be permanently removed from the city; or (ii) that the owner and the dog complete a course of obedience and/or anti-bite training approved by the commissioner.

In the event that the owner or keeper of the dangerous dog is a minor, the parent or guardian or such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by such dangerous dog.

§ 17-346 *Confiscation and/or confinement of a dangerous dog.* a. In the event that the owner of a dangerous dog violates any order of the commissioner as prescribed at the determination hearing, such owner's dog may be confiscated and impounded by the proper authorities upon the order of the commissioner. In addition, any dog determined to be dangerous shall be immediately confiscated by the proper authorities if the dog bites or attacks a human being and causes injury, or if the dog, at the sufferance of its owner, is engaged in or apparently engaged in a dog fight contest or is proximately near the area in which such a contest is being conducted.

b. The owner of a dog determined to be dangerous by the commissioner, which has been confiscated pursuant to subdivision (a) of this section, may request the commissioner to conduct a hearing to determine if the dog should be returned to the owner. Upon such request, the commissioner shall provide for a hearing within five days.

§ 17-347 *Excused behavior.* No dog shall be declared dangerous pursuant to § 17-345 if the threat, injury, or damage caused by such dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or was committing or attempting to commit a crime. Nor shall any dog be declared dangerous if it was responding to pain or injury, or was protecting itself, its kennels, or its offspring. If the trespass is determined to be of an innocent nature, the commissioner may, depending on the circumstances, and in accordance with the procedures set forth in section 17-345, find the dog to be dangerous.

§ 17-348 *Regulations.* The commissioner, within ninety days of the effective date of this subchapter and with the advice of the advisory board hereinafter established, shall promulgate such regulations as are necessary to carry out the provisions of this subchapter and to promote the health, safety and well-being of the public.

§ 17-349 *Dangerous dog advisory board.* a. In the department, there shall be a dangerous dog advisory board consisting of the commissioner, or his or her designee, and five members, two of whom shall be appointed by the mayor and three of whom shall be appointed by the speaker of the city council. The membership of such board shall include two veterinari-

ans, a certified animal trainer in possession of a valid permit and certificate issued by the commissioner pursuant to § 161.09(a) and (h) of the New York City health code, a representative of a recognized humane society, such as the American Society for the Prevention of Cruelty to Animals, or similar organization, and a member of the public.

b. Each member of the advisory board, other than the commissioner, or his or her designee, shall serve for a term of three years, without compensation.

c. The board shall be appointed and meet within one month of the effective date of this subchapter.

d. The board shall make recommendations to the commissioner on regulations necessary to carry out the provisions of this subchapter and to promote the health, safety and welfare of the public, and of dangerous dogs.

e. The board shall meet at least once every four months to assess the regulations promulgated by the commissioner and to make further recommendations on regulations necessary to carry out the provisions of this subchapter. A written report describing its activities and plans shall be issued to the commissioner by the board one year after the effective date of the local law and each year thereafter.

§ 17-350 *Violations and penalties.* a. Any person who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be guilty of a misdemeanor punishable by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not more than one year, or both.

b. In addition to the penalties prescribed by subdivision a of this section, any person who violates any of the provisions of this subchapter or any rule or regulation promulgated hereunder shall be liable for a civil penalty of not less than five hundred nor more than five thousand dollars.

§ 17-351 *Enforcement.* Authorized officers, veterinarians and employees of the department, and of the police department, and any other persons designated by the commissioner, shall be empowered to enforce the provisions of this subchapter or any rule or regulation promulgated hereunder.

§ 17-352 *Construction.* The provisions of this subchapter shall not be construed to prohibit the department, the American Society for the Prevention of Cruelty to Animals or any law enforcement officer from enforcing any other law, rule or regulation regarding the humane treatment of animals.

§ 17-353 *Exemptions.* The provisions of this subchapter shall not apply to any federal, state or city law enforcement agency.

§ 17-354 *Severability.* If any provision of this subchapter is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this subchapter.

§ 3. This local law shall take effect ninety days after its enactment into law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 20, 1990, and approved by the Mayor on January 4, 1991.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 2 of 1991, Council Int. 250-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 20, 1990: 31 for, 0 against.

Was approved by the Mayor on January 4, 1991.

Was returned to the City Clerk on January 7, 1991.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel