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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.

Village of Whitney Point

Local Law No. 1 of the year 2011

**A LOCAL LAW OF THE VILLAGE OF WHITNEY POINT
FOR THE CONTROL OF DOGS IN THE VILLAGE**

Be it enacted by the Village Board of the Village of Whitney Point as follows:

§ 1. Title.

The title of this Local Law shall be, "Control of Dogs in the Village of Whitney Point".

§ 2. Statutory Authority.

This Local Law is adopted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

§ 3. Purpose.

The purpose of this Local Law is to protect the health, safety and general welfare of the inhabitants of the Village of Whitney Point by establishing regulations on the activities of dogs and to provide for the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

§ 4. Definitions.

As used in this Local Law, the following words shall have the following respective meanings:

1. "At large" means an unleashed dog not under control of the owner and off the premises of the owner.
2. "Companion animal" means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Companion animal" shall not include a "domestic animal as defined in this Section.

3. "Dangerous dog" shall have the meaning set forth in the New York Agriculture and Markets Law, including section 108(24) of said law or any revision or renumbering thereof.
4. "Dog" means any member of the species *canis familiaris*.
5. "Dog Control Officer" means any individual appointed by the Village to assist in the enforcement of this Local Law or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Village to assist in the enforcement of this Local Law.
6. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail dam which is raised under license from the New York State Department of Environmental Conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the New York State Department of Environmental Conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this Local Law.
7. "Farm animal", as used in this Local Law, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur bearing animals, as defined in section 11-1907 of the New York State Environmental Conservation Law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.
8. "Habitual Barking or Annoying Conduct" means unprovoked habitual loud howling, barking, crying, whining, or other noise, or conduct that unreasonably and habitually annoys and/or disturbs any person other than the owner of such dog, for five minutes with four or more vocalizations per minute, or for 20 minutes with two or more vocalizations per minute, on seven or more occasions in any seven-day period.
9. "Harbor" means to provide food or shelter to any dog.
10. "Identification tag" means a tag issued by a licensing municipality which sets forth an identification number, together with the name of the municipality, the State of New York, contact information, including telephone number for the municipality, and such other information as the licensing municipality deems appropriate.
11. "Identified dog" means any dog carrying an identification tag.
12. "Municipality" means any county, town, city or village.

13. "New York State Agriculture and Markets Law" means 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.
14. "Owner" means any person who harbors or keeps any dog. If a dog is not licensed, the term of "owner" shall mean and cover any person or persons, firm, association or corporation who or which at anytime owns or has custody or control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the Village. Any person owning or harboring a dog for a period of one week 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 Local Law shall be owned by a minor (under 18 years of age), the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog and any violation of this Local Law.
15. "Owner of record" means the person purchasing the license or in whose name any dog was last licensed. An owner of record shall be 18 years of age or older.
16. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.
17. "Town" means the area within the limits of the Town of Triangle.
18. "Town Clerk" means the Town of Triangle Clerk.
19. "Unaltered" shall refer to any dog that is not spayed or neutered.
20. "Village" means the Village of Whitney Point.
21. "Village Board" means the Village of Whitney Point Board.
22. "Village Clerk" means the Village of Whitney Point Clerk.

§ 5. Prohibited Acts.

- A. It shall be unlawful for any owner of any dog in the Village to permit or allow such dog to:
 1. Run at large, unless the dog is restrained by an adequate collar and leash not exceeding eight (8) feet in length and accompanied by its owner or a responsible person and under the full control of such owner or person of sufficient ability to effectively control such dog on such leash.
 2. Engage in Habitual Barking or Annoying Conduct.
 3. Cause damage or destruction to property including but not limited to uproot,

dig or otherwise damage any vegetables, lawns, flowers, garden beds, or defecate, or otherwise commit a nuisance other than on the property of the owner of such dog.

4. Chase, jump upon or at, or otherwise harass any person, or companion animal of such person, in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury to themselves or their companion animal.
 5. Chase, run alongside, or otherwise harasses any motor vehicle, motorcycle, bicycle, carriage or any other vehicle or device used by persons for travel or any riders or occupants thereof while said vehicle or device is on a public highway or private property other than property of the owner of said dog. For purposes of this section, a horse or other animal shall be considered a vehicle or device.
 6. Any owner who allows a dog to defecate on any public or private property, other than the property of the owner, shall immediately clean up the feces, place it in a container or bag, and deposit it in a container used for the disposal of refuse. In no event shall any feces be deposited in the Village sewer system, storm drains, or any streams or ponds.
- B. It shall be unlawful for any owner of a dog to:
1. Fail to license any dog at the age of four (4) months or older, or allow any dog to be unlicensed due to failure to renew a dog license.
 2. Fail to have any dog identified by a valid and current Town dog license identification tag.
 3. Knowingly affix to any dog any false or improper identification tag or any identification tag belonging to another dog.
 4. Fail to confine, restrain or present such dog for any lawful purpose pursuant to this Local Law or Article 7 of New York State Agriculture and Markets Law.
 5. Furnish any false or misleading information on any form, required by the Village of Whitney Point Dog Control Officer, or any shelter or pound servicing the Village.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the owner of such dog that he/she has failed to properly confine, leash or control his/her dog.

§ 6. Conditions for Keeping Dogs.

All premises occupied by dogs shall be kept in a clean, sanitary condition. Adequate food, water, shelter and space must be provided for each dog owned. For

the purpose of this Section, "adequate" shall mean sufficient for age, size and number of dogs on the premises.

§ 7. Dogs in Heat.

All female dogs, while in season (heat), shall be confined to the premises of their owner and may not be left outside unattended, except in a secure pen or other enclosure. Any owner not adhering to this section shall be subject to having the dog seized by the Dog Control Officer and removed to a shelter or pound for confinement. The owner of any dog seized pursuant to this section shall be subject to an impoundment fee plus the shelter's usual boarding fees for time spent in the shelter. In the event that the dog is released from the shelter before the end of its cycle, the owner must demonstrate to the shelter manager that the dog shall be sufficiently confined elsewhere.

§ 8. Liability of Owner.

1. If a domestic, farm or companion animal is injured or killed as a result of being attacked, chased or worried by any dog, the owner of said dog shall be responsible to the owner of the injured or killed animal for damages. Such liability shall be in addition to any other or different remedies in the law, including those in Article 7 of the Agriculture and Markets Law. The owner of such injured or killed animal may make a complaint to the Dog Control Officer or a police officer who shall proceed pursuant to the Dangerous Dog section of Article 7 of New York State Agriculture and Markets Law.
2. In no event shall the Village be held liable for any damage done by any dog.

§ 9. Dangerous Dogs.

1. In the event the Village has reason to believe that a dog is a "dangerous dog," it shall proceed in accordance with the provisions of Article 7 of the New York Agriculture and Markets Law, including section 121 of said Law or any revision or renumbering thereof.
2. In the event that a dog is determined by the Triangle Town Court to be a dangerous dog, the Court shall give notice to the Town Clerk and Village Clerk of such determination, who shall make a note of said determination in the dog's record.
3. Additionally, the Village Clerk shall notify local law enforcement and emergency services of the determination.

§ 10. Enforcement/Appeal Ticket.

Any Dog Control Officer or other person or persons, who are or may be lawfully authorized by the Village, shall, or any other peace officer may, administer and enforce the provisions of this Local Law, and for such purpose shall have the authority to issue appearance tickets.

§ 11. Seizure, Impoundment, Redemption and Adoption.

1. Any dog belonging to a person found in violation of any of the provisions of this Local Law may be seized pursuant to the provisions of New York State Agriculture and Markets Law.
2. Any dog believed to be dangerous and which poses an immediate threat to the public safety may be seized.
3. Any dog may be seized, which has been judged to be a “Dangerous Dog” pursuant to New York State Agriculture and Markets Law and whose owner has failed to obey a court order pertaining to said Dangerous Dog.
4. Seized dogs may be redeemed by producing proof of licensing and identification and by paying the appropriate fees set by the shelter, and a release from the court stating that all fines have been paid.
5. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provision of New York State Agriculture and Markets Law.
6. The seizure of any dog shall not relieve any person from any violation of this Local Law or New York State Agriculture and Markets Law.

§ 12. Complaint.

1. Any Village designated Dog Control Officer or Agency having reasonable cause to believe that a violation of this Local Law has been committed in his/her presence shall, and any peace officer may issue and serve upon such person an appearance ticket for such violation.
2. Any person who observes a dog in violation, of this Local Law may file a complaint, under oath, with a Village designated Dog Control Officer or the Village Clerk specifying the nature of the violation, the date thereof, a description of the dog, the location of the violation and the name and residence of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this Local Law.
3. Upon receipt by the Village designated Dog Control Officer or Village Clerk of any such complaint, the Dog Control Officer shall issue an appearance ticket to the alleged owner of the dog to appear before the Triangle Town Court at a date and time specified.

§ 13. Non-liability.

No action shall be maintained against the Village, the Whitney Point Dog Control Officer, or any person or persons lawfully authorized by the Village when performing duties pursuant to this Local Law or New York State Agriculture and

Markets Law to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law or New York State Agriculture and Markets Law.

§ 14. Violations and Penalties.

1. A plea or conviction of a violation of this Local Law shall be prosecuted pursuant to penal law, by a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00), except:
2. Were a person is found to have violated this Local Law or any prior Village Dog Law within the preceding five years, the fine may be not less than fifty dollars (\$50) or more than five hundred dollars (\$500.00); and
3. Where the person is found to have violated this Local Law or any prior Village Dog Law two or more times within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000.00).
4. For the purpose of conferring jurisdiction upon courts and judicial officers generally, offenses of this Local Law shall be deemed violations and for such purposes only all provisions of law relating to violations shall apply.

§ 15. Separability.

If any section, paragraph, subdivision, clause, phrase or provision of this Local Law shall be judged invalid or held unconstitutional, it shall not affect the validity of the Local Law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

§ 16. Repealer.

This Local Law shall supersede all prior Local Laws, ordinances, rules and regulations relative to the control of dogs within the Village, and they shall be, upon the effective date of this Local Law, null and void.

§ 17. Effective Date.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2011 of the Village of Whitney Point was duly passed by the Village Board of Trustees on May 11, 2011 in accordance with the applicable provisions of law.

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.

Dated: May 11, 2011



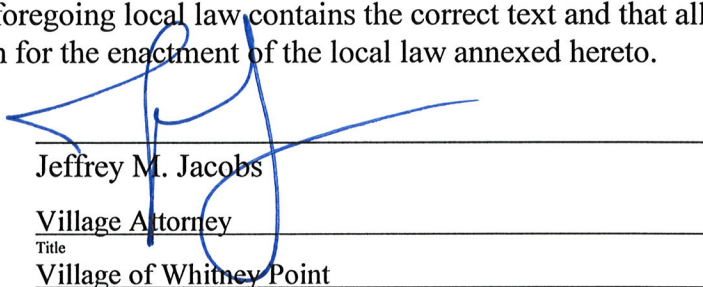
Roberta L. Bush, Village Clerk
of the Village of Whitney Point

(Seal)

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

STATE OF NEW YORK :
: ss:
COUNTY OF BROOME :

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.



Jeffrey M. Jacobs
Village Attorney
Title
Village of Whitney Point

Date: May 11, 2011



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

June 23, 2011

Village Clerk

RE: Village of Whitney Point, **Local Law 1 & 2 2011**, filed on May 23, 2011

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755