

## 2001 DOG CONTROL LEGISLATION – CONTROL OF NUISANCE DOG LAW

### SECTION 1: TITLE

This law shall be known as the “Control of Nuisance Dog Law

### SECTION 2: DEFINITIONS

- a. Dog – Shall include both male and female dogs, without regard to whether the dog is spayed or neutered.
- b. Owner - Any person, who owns, keeps, harbors or has care, custody or control of a dog. Dogs owned by a minor shall be deemed to be in the custody of the minor’s parents, guardian or head of the household where the minor resides.
- c. Dangerous Dog – Any dog that attacks any person or domestic animal within the meaning of Article 7 of the Agriculture and Markets Law of the State of New York. Such dog shall be dealt with in accordance with Article 7 of the Agriculture and Markets Law.
- d. Restraint – A dog is to be considered under restraint when:
  - 1) It is controlled by a lease, or
  - 2) It is used to track, locate or chase game by a licensed hunter who is in the field
  - 3) It is within the property limits of the owner, whether loose or confined, or confined on the premises of another with the consent of that person, or
  - 4) It is within a vehicle being driven on, or parked on the street.

### SECTION 3: NUISANCE

It shall be unlawful for the owner of any dog in the Town of Genoa to permit or allow his or her dog to:

- a) Habitually run at large
  - 1) Off the owner’s property and
  - 2) Not under the restraint of a competent person
- b) Habitually engage in loud howling or barking crying or whining or to conduct itself in such a manner so as to disturb the comfort and repose of any person other than the owner of such dog.
- c) Habitually chase and/or bark at motor vehicles, pedestrians, or persons on bicycles while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog
- d) Habitually jump on, chase, bark at or otherwise harass any person in such a manner as to put such person in reasonable apprehension of bodily harm or injury.

- e) Defecate on, or dig in or otherwise damage public or private property other than the owner or harbinger of said dog.
- f) Upset or otherwise interfere with garbage receptacles.
- g) Cause damage to property or person of others.
- h) Kill or injure and dog cat or household pet.
- i) Uproot, dig or otherwise damage any vegetables, lawn, flowers, garden beds or other property without the consent approval of the owner thereof.
- j) No unspayed dog in season shall be allowed to roam, nor shall she be left unattended without the precaution of properly enclosing her either by fence or cage. In all cases she should be properly supervised so as to prevent the occurrence of dog packs.
- k) Habitual – For the purpose of this Local Law, habitual shall mean the continuous barking, howling or making of other noises for a period of 30 minutes or more; or other nuisance behavior on 2 or more occasions, within a three month period.

#### SECTION 4: ENFORCEMENT

a ) This Local Law shall be enforced by the Dog Control Officer, by any Peace Officer or by any person having jurisdiction under the Agriculture and Markets Law. The Dog Control Officer is hereby authorized to issue an appearance ticket for any violation of this law pursuant to the Criminal Procedure Law of the State of New York in the enforcement of this Local Law.

b ) Any person who observes a dog in violation of this Local Law may file a complaint under oath with the Town Justice in the Town or the Town Dog Control Officer 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 such dog. Such complaint may serve as the basis for enforcing the provisions of this Genoa Law. However, any complaint arising from a dog's alleged damage to private property must be made by the owner, or legal tenant, of that property, supported by sworn statements of witnesses with direct knowledge, if the owner or tenant did not witness the damage himself/herself.

#### SECTION 5: SEIZURE

a ) Any dog alleged to be in violation of this Local Law, and caught at large, may be seized by the Dog Control Officer or any Peace Officer and shall be impounded and disposed of in accordance with the provisions of Article 7 or other applicable provisions of the Agriculture and Markets Law.

b ) The Dog Control Officer or Police Officer may also investigate or refer to a Town Justice of the Town any dangerous dogs described in Article 7 of the Agriculture and Markets Law and see that the order of the of the Town Justice in such case is carried out.

c ) No person shall hinder, resist or oppose the Dog Control Officer, Peace Officer or other person {s} authorized to administer or enforce the provisions of this Local Law in the performance of the officer's duties under this Local Law.

d ) Each dog seized in accordance with the provisions of this Local Law shall be properly sheltered, fed and watered in the redemption period as herein provided in a facility designated by the Town Board of the Town of Genoa.

#### SECTION 6: IMPOUNDMENT FEES

Each dog which is seized, whether or not licensed, shall be held for a period of at least five (5) days from when seized, during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed pursuant to the Agriculture and Markets Law and further provided that the owner pays impoundment fees which shall be set by the Town Board, by resolution. Any owner of a licensed dog shall be liable for the seizure and impoundment fees regardless of whether the dog is redeemed or not.

#### SECTION 7: FINES AND PENALTIES

1. Upon an owner's first conviction for any violation of this law, a fine in an amount not to exceed \$50.00 shall be imposed.
2. Upon an owners second conviction within 18 months, with respect to any Dog, for a violation of this law, a fine of not less than \$35.00 and not more than \$100.00 shall be imposed.
3. Upon an owner's third or subsequent conviction within 18 months with respect to any dog, for any violation of this Law, a fine of not less than \$75.00 and not more than \$175.00 shall be imposed.

#### SECTION 8: NOTIFICATION

Promptly upon seizure of the identified dog, the owner of record of such dog shall be notified by the Dog Control Officer of the fact of seizure and the procedure for redemption. Notification of the seizure shall be given to the owner in at least one of the following manners: (a) by personal delivery, or (b) by certified mail, return receipt requested, or (c) by leaving a copy of the notice at the owners residence of record, and also by regular mail.

If notification is personally given, such dog shall be held for a period of at least 5 days after day of notice, during which period the dog may be redeemed by the owner in accordance with Agriculture and Markets Law provisions. If notification is given by some method other than personal notification, the dog shall be held for a period of at least ten days, the owner may redeem such dog upon payment of the impoundment fees to the

Town of Genoa prescribed in Section 6 of this Local Law and by producing proof that the dog has been licensed.

#### SECTION 9: FORFEITURE

An owner shall forfeit title to any dog unredeemed by the expiration of the appropriate redemption period, during which time it may be kept with no liability to the Town of Genoa. After the expiration of the redemption period the dog will either be put up for adoption, or euthanized in accordance with Agriculture and Market Law provisions

#### SECTION 10: LIABILITY

The owner or harbinger of any dog destroyed under the provisions of this Local Law, whether destroyed by the Dog Control Officer or Peace Officer or released to an authorized humane society or veterinarian, shall not be entitled to any compensation, and no action may be maintainable thereafter to recover the value of such dog or any other type of damage.

#### SECTION 11; INCORPORATION OF STATE LAW

The provisions of Article 7 of the Agriculture and Markets Law of the State of New York are deemed incorporated in the Local Law as is fully set forth herein. Any State Law which is inconsistent with this Local Law shall be superseded by the provisions here to the extent of its inconsistency, except where supersession is restricted by law

#### SECTION 12: SERERABILITY

If any part or parts of this Local Law are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Local Law.

#### SECTION 13: EFFECTIVE DATE:

This Local Law shall take effect immediately upon filing with the State of New York.