

CITY OF PORT JERVIS

Chapter 215. Animals, Dog Control and Other

Article 1. Dogs

Local Law No. 2 of 2021 .

§ 215-1 License and tag required; seizure and impoundment; disposition.

A. This chapter is enacted pursuant to the New York Municipal Home Rule Law and the Agriculture and Markets Law to provide for the licensing, identification and control of dogs. Effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing function to local municipalities and will eliminate the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue, which is the purpose of this article.

B. This chapter is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law as amended by Part T of Chapter 59 of the Laws of 2010 and the Municipal Home Rule Law of the State of New York, as the same may be subsequently amended and supplemented. C. All words, terms or phrases used herein shall have the meanings indicated below or as defined in the Agriculture and Markets Law. If no specific definition is set forth, all words shall have their usual and customary meaning in the English language. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is intended to be mandatory.

**ANIMAL/DOG CONTROL OFFICER**

Any individual appointed by the Chief of Police of the City, the Common Council of the City and/or the Mayor of the City to enforce this chapter.

The City of Port Jervis, Orange County, New York.

**CLERK**

The City Clerk, or Deputy City Clerk, of the City, or his or her agent.

**DOG**

Any member of the species *Canis familiaris*.

**HARBOR**

To provide food or shelter to any dog.

**IDENTIFICATION TAG**

A tag issued by the Clerk that sets forth an identification number, as required by the provisions of this section.

**OWNER**

Any person who harbors or keeps any dog.

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D. Chapter 215 of the Port Jervis City Code as it currently exists shall herein and hereby be repealed and, in its place and stead, this chapter is enacted and shall be designated as the new Chapter 215 of the Port Jervis City Code and shall be entitled "Dog Control."

E. Dog licensing requirements, procedures and fees.

(1) License application.

(a) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large or that is residing in a pound or shelter maintained by or under contract or agreement with the state or any county, city, town or village, any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective society.

(b) Application for a dog license shall be made to the Clerk and shall be accompanied by the appropriate license fee, as specified below.

(c) The application shall state the sex, actual or approximate year of birth, breed, color(s), and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and residence of owner, and such other information as deemed necessary by the Clerk. (d) In the case of a spayed or neutered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided that such certificate shall not be required if the same is already on file with the Clerk.

(e) The application shall be accompanied by a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.

(2) License fees. The fee for a dog license shall be set by resolution of the Common Council, from time to time.

(a) Upon submission of proper documentation, there shall be no fee charged for the license issued for any detection dog, guide dog, hearing dog, police work dog, service dog, therapy dog, war dog or working search dog, as such terms are defined by the Agriculture and Markets Law or by Article I of this Chapter 215.

(b) In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay an additional fee of \$25. Such additional fee shall be used to pay the expenses incurred by the City in conducting the enumeration, if the City conducts such an enumeration. In the event that the additional fees collected exceed the expenses incurred by the City in conducting an enumeration in any year, such excess fees may be used by the City for any other lawful purpose.

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(c) In the event any person applying for a dog license has failed to pay for or renew a dog license for all or part of any prior year, such person must pay to the City all licensing fees that would have been due and payable in such prior years along with the licensing fees due and payable for the current year for which such person is applying for a dog license. By way of example, if the owner of a dog applies for a dog license to cover the year from May 1, 2015, through April 30, 2016, but should have obtained or renewed a license for that dog for the prior three years and failed to do so, such person must pay the licensing fees for the year May 1, 2015, through April 30, 2016, as well as the applicable licensing fees for the prior three years.

(3) Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made. (4) The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.

(5) A license shall be renewed after a period of one year beginning with the first day of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.

(6) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.

(7) No dog can be adopted out of the City's animal shelter without first obtaining a license from the Clerk.

F. Identification of dogs.

(1) Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent municipal identification number. Such identification number shall be carried by the dog on an identification tag that shall be affixed to a collar on the dog at all times.

(2) The 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. (3) At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee of \$5.

(4) 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.

(5) The identification tag shall be imprinted with the words "City of Port Jervis" and "State of New York," a unique identification number, and the telephone number of the Clerks office.

G. Change of ownership; lost or stolen dogs. In accordance with the provisions of 112 of the Agriculture and Markets Law:

(1) In the event of a change in ownership of any dog that has been assigned an identification number or in the address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Clerk.

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(2) If any dog that has been assigned a municipal identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Clerk.

(3) In the case of a dog's death, the owner of record shall so notify the Clerk, either prior to renewal of license or upon the time of such renewal.

H. Seizure and impoundment. In accordance with 17 of the Agriculture and Markets Law:

(1) The Animal/Dog Control Officer shall seize:

(a) Any dog which is not licensed, whether on or off the owner's premises.

(b) Any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is dangerous.

(c) Any dog which poses an immediate threat to the public safety.

(d) Any dog in violation of this section of the chapter.

(2) The Animal/Dog Control Officer, when acting pursuant to his or her special duties, shall 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 municipal identification number of the such dog (if any), the location where seized, the reason for the seizure and the owner's name and address, if known.

(3) Each dog seized in accordance with the provisions of this section shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

(4) Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this section and further provided that the owner pays the following impoundment fees:

(a) Not less than \$275 for the first impoundment of a dog owned by that person. (b) Not less than \$300 for the second impoundment, within one year of the first impoundment, of any dog owned by that person.

(c) Not less than \$325 for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

(d) If, upon redemption, any dog received a rabies vaccination, the charge for such vaccination shall be added to impoundment fees.

(5) If, at the end of the appropriate redemption period, said dog has not been redeemed by its owner, the owner shall forfeit all title to the dog, and it shall be available for adoption or be released to an authorized humane society or shelter.

(6) Prior to releasing a dog to its owner or adopting out a dog, the Animal/Dog Control Officer shall deliver to the owner a statement of number of days the dog has been in the shelter and the costs for any veterinary care, which statement the owner shall take to the Clerk to whom all fees due and owing for the shelter and veterinary care shall be paid, together with the impoundment fees and any licensing fees, whereupon the Clerk shall give a receipt to the owner who shall then deliver it to Animal/Dog Control Officer, at which time such dog may be released to owner.

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I. Fees can be changed upon Common Council resolution. Any fees charged under this section of the Code of the City, or any penalties imposed under this chapter, may be changed from time to time by resolution of the Common Council of the City.

§ 215-2 Leashing.

All dogs in the City of Port Jervis, New York, whether or not tagged or licensed, shall be restrained by a leash while off the owner's premises, and any dog not so restrained and found off the owner's premises shall be seized by any peace officer, Animal Control Officer, Dog Warden or designated representative of the Commissioner of Agriculture and Markets and held, sold, redeemed or destroyed in accordance with the provisions of the New York State Agriculture and Markets Law or this article. In addition, any dog that is restrained by a leash or other type of restraint while off the premises and while in a public area, or in a common area of a residential or commercial property, or in the public right-of-way, must be attended and supervised at all times by the owner of the dog or an agent of the owner, so that such dog does not impede or affect the safe passage by or presence of members of the public through, in or over such public area, common area of a residential or commercial property or the public right-of-way.

§ 215-3 Running at large.

No person shall permit his dog to run at large.

§ 215-4 Howling or barking.

A. No person shall permit his or her dog to howl or bark at any time of the day or night for a period in excess of 15 minutes continuously.

B. No person shall permit his or her dog to howl or bark during the hours between 10:00 p.m. and 8:00 a.m. for a period in excess of five minutes continuously. No conviction shall be allowed under this subsection without the corroborating testimony of at least one witness from a property other than that owned or occupied by the complainant. It shall be an affirmative defense to such violation if the owner of the dog proves that the only reason the dog was barking or howling was that the dog was being provoked by a person or was acting as a guide dog, hearing dog, service dog or police work dog.

§ 215-5 Removal of feces required; disposal; exceptions.

A. Removal of feces required. Any person owning or in charge of any dog which soils, defiles, defecates on or commits any feces on any common thoroughfare, sidewalk, passageway, play area, park or any place where people congregate or walk or upon any private property, without the permission of the owner of said property, shall immediately remove all feces deposited by any such dog, in a sanitary manner.

B. Disposal of feces. The feces removed from the aforementioned designated areas shall be disposed of by the person owning or in charge of any such dog in a sealed, nonabsorbent, leakproof container.

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C. Exception for guide dogs. The provisions of this section shall not apply to blind persons who may use dogs as guides.

### § 215-5.1 Service dogs.

A "service dog" is any dog which has been or is being trained to do work for the benefit of a person with a disability, provided that the dog is or will be owned by that person, his or her parent, guardian or legal representative. "Disability" is now the same definition as used in the Executive Law as a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory techniques or a record of such an impairment or a condition regarded by others as such an impairment.

### § 215-5.2 Detection dogs.

Detection dogs are also now exempt from license fees. This includes dogs trained and used to detect controlled substances, explosives, firearms, cadavers, or school or correctional facility contraband. Search and rescue dogs are also still exempt under the working search dog classification.

### § 215-5.3 Therapy dogs.

Effective January 1, 2003, any dog which 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 state during the period such dog is being trained or bred for such purpose is exempt from license fees. New York State recognizes the following two institutes, Therapy Dog International, Inc., and the Delta Society, as training centers.

### § 215-5.4 Maximum number of dogs.

A. No more than four dogs over four months old may be harbored or permitted to remain in any dwelling unit or lot in the City of Port Jervis.

B. Any person who violates any of the provisions of this section shall be guilty of an offense within the meaning of the Penal Law of the State of New York and, upon conviction thereof, shall be subject to a fine of not less than \$50 nor more than \$500 for each violation and, in addition, may be required by the court in its discretion to pay restitution to the City of Port Jervis for any expenses associated with the seizure, impoundment, shelter, care or destruction of the violator's dogs. Each day that a violation is permitted to exist shall constitute a separate offense.

C. In the event that a law enforcement agent or Animal Control Officer has probable cause to believe that a dog is being harbored or permitted to remain in any dwelling unit or lot in violation of this section, the law enforcement officer or Animal Control Officer may petition the Port Jervis City Court to order the seizure and impoundment of the dog pending a hearing. The owner or custodian of any dog seized and impounded pursuant to this section shall be afforded a hearing upon appropriate notice within five days of said seizure to determine if in fact a violation of the section occurred.

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§ 215-6 Dangerous dogs.

A. Legislative intent. The Common Council has determined that there exists a need to address the situation of dangerous dogs in the City of Port Jervis by supplementing the provisions of § 123 of the Agriculture and Markets Law of the State of New York.

B. Applicability. The provisions of this section shall be deemed to supplement applicable state and local laws, ordinances, codes or regulations, and nothing in this section shall be deemed to abolish, impair, supersede or replace existing remedies, rights or requirements of any other applicable state and local laws, ordinances, codes or regulations.

C. Definitions. As used in this section, the following terms shall have the meaning indicated:

**DANGEROUS DOG**

(1) Includes:

(a) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to menace or to otherwise endanger the safety of human beings;

(b) Any dog which attacks a human being without provocation;

(c) Any dog which attacks another dog/cat on the latter's own premises without provocation and which inflicts serious physical injury upon such other dog/cat;

(d) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;

(e) Any dog which attacks any domesticated animal(s) and/or human while the dog is under the control of its owner on public property; or

(f) Any dog designated as dangerous by the Animal Control Officer or Police Chief of the City of Port Jervis.

(2) No dog shall be deemed dangerous if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

**SERIOUS PHYSICAL INJURY**

Death, dismemberment, fracture or any injury to a dog/cat which in the opinion of a licensed veterinarian threatens the life of such dog/cat.

D. Confinement and care of dangerous dogs.

(1) No person owning or harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go unconfined on the premises of such person. A

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dangerous dog is "unconfined," as the term is used in this section, if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of said person. Such pen or dog run area must also have either sides six feet high or a secure top, must be at least 10 feet from the property line of any adjoining premises, and must comply with the Zoning Law regarding fences. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one foot. In addition, any dangerous dog kept or harbored must have a "chip" implanted by a licensed veterinarian so that the history and whereabouts of said dog can be traced by the Animal Control Officer of the City of Port Jervis and others. Proof of payment must be provided to the Animal Control Officer upon his/her request.

(2) No person owning or harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

(3) No person shall possess with intent to sell, offer for sale, breed, or buy or attempt to buy within the City of Port Jervis any dangerous dog.

(4) All persons owning or harboring or having the care or custody of a dangerous dog shall post their premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner or custodian of a dangerous dog shall conspicuously display a sign to be obtained by the Animal Control Officer of the City of Port Jervis. Said sign shall contain a warning symbol that informs children of the presence of a dangerous dog.

(5) All persons owning or harboring or having the care or custody of a dangerous dog shall procure and maintain a liability policy with limits not less than \$100,000, combined single-limit bodily injury and property damage, for injury or damage caused by the dog.

(6) The owner or custodian of any dangerous dog shall immediately notify the Port Jervis Police Department or Port Jervis Animal Control Officer if said dangerous dog is unconfined or has bitten a human being, domestic animal, dog or cat.

(7) The owner or custodian of any dangerous dog shall give 72 hours' notice to the Animal Control Officer of the City of Port Jervis prior to the giving away or transfer of ownership of any dangerous dog. Said notice must provide the Animal Control Officer with the name, address and telephone number of the new or proposed owner or custodian of the dangerous dog.

E. Illegal training of dogs. 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 unprovoked attacks upon human beings, domestic animals, dogs or cats.

F. Enforcement.

(1) In the event that a law enforcement agent or Animal Control Officer has probable cause to believe that a dog is being harbored or cared for in violation of this section, the law enforcement agent or Animal Control Officer may petition the Port Jervis City Court to order the seizure and impoundment of the dog pending hearing. In the event that a law enforcement agent or Animal Control Officer has probable cause to believe that a



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dangerous dog is being harbored in violation of Subsection D(2) or that any dog is being harbored in violation of Subsection E or that any dog has attacked a human being, the law enforcement agent or Animal Control Officer may seize and impound the dog pending hearing.

(2) Any person may make a complaint under oath or affirmation to the Port Jervis City Court of any violation of this section.

(3) The owner or custodian of any dog seized and impounded pursuant to this section shall be afforded a hearing upon appropriate notice within five days of said seizure to determine if in fact a violation of this section has occurred.

G. Penalties. A violation of any provisions of this section shall constitute an offense within the meaning of the Penal Law of the State of New York punishable as provided for herein.

(1) A fine of no less than \$150 and no greater than \$500 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment, for a first offense.

(2) A fine of no less than \$350 and no greater than \$1 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment, for a second or subsequent offense.

(3) Any person violating Subsection E, Illegal training of dogs, shall be subject to penalties as prescribed in 351 of the Agriculture and Markets Law.

(4) Any person violating the provisions of this section may be required in the court's discretion to pay restitution to:

(a) Any person who incurs medical or veterinarian expenses as the result of an attack by the violator's dangerous dog; or

(b) The City of Port Jervis for any expenses associated with the seizure, impoundment, shelter, care or destruction of the violator's dangerous dog.

(5) A Judge of the Port Jervis City Court may, in his or her discretion, order the destruction of any dangerous dog owned or harbored in violation of the provisions of this section when the court determines that such dog represents a continuing threat of serious harm to human beings.

H. Contesting determination of dangerous dog. The owner or custodian of any dog determined by the Animal Control Officer or Police Chief of the City of Port Jervis to be dangerous within the meaning of this section may contest such designation by commencing an action as provided in Article 78 of the Civil Practice Law and Rules within 30 days of the mailing of the written notice provided for in Subsection I below.

I. Records; written notice. The City Clerk of the City of Port Jervis shall keep records identifying by name and address the owners or custodians of all dogs determined to be dangerous by the Animal Control Officer or the Police Chief of the City of Port Jervis. The Animal Control Officer shall provide all owners and custodians of dangerous dogs with written notice of the provisions of this section.

J. Reporting of all animal bites. It shall be the duty of every person within the City of Port Jervis, including every veterinarian and physician practicing within the City of Port Jervis, to

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promptly report to the Port Jervis Police Department or Port Jervis Animal Control Officer any instance in which a person is bitten by a dog.

K. Inspections. The Animal Control Officer of the City of Port Jervis is hereby authorized to make appropriate and reasonable inspections and inquiries to ensure compliance with this section.

§ 215-7 City parks.

A. No dogs shall be permitted in any park owned by the City of Port Jervis, except in areas specifically designated for such use by the Department of Recreation and Parks.

B. A violation of this section shall constitute an offense within the meaning of the Penal Law of the State of New York and shall be punishable as provided in 215-8C.

215-8 Penalties for offenses.

A. Except as otherwise provided in Article 7 of the Agriculture and Markets Law, any person violating any provision or provisions of 215-1 of Article I of this chapter shall be deemed to have committed an offense against such 215-1 and any violation shall be punishable by a fine not exceeding \$250 or by imprisonment for not more than 15 days, or both fine and imprisonment, for each offense. Any violation which continues beyond one day shall be deemed a separate violation and bear a separate penalty for each separate day, 12:00 midnight to 12:00 midnight, in which the violation occurs.

B. Any person who violates any of the provisions of 215-6 of this article shall be subject to the penalties prescribed in 215-6G.

C. Any person who violates any of the provisions of 215-7 of this article shall, upon conviction thereof, be subject to a fine of not less than \$1 nor more than \$500 and/or to imprisonment [Or not longer than 15 days in jail for each violation.

D. Any person who violates any of the other provisions of this article shall, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$500 for each violation. Any person who violates any of the provisions of 215-4 of this article shall, in addition, be subject, in the court's discretion, to a conditional discharge requiring one or more of the following directives:

- (1) The subject dog(s) must not be left outside if the owner or his/her family is not home;
- (2) The subject dog(s) must wear a bark collar when outside;
- (3) The owner of the subject dog(s) must install an outside ultrasonic bark control system;
- (4) The subject dog(s) must be housed inside the residence between 10:00 p.m. and 8:00 a.m. At any time the subject dog(s) is(are) outside during these hours, it(they) must be accompanied by the owner or suitable age person in charge of the dog(s);

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(5) Removal of the subject dog(s) from the premises upon the third or subsequent conviction under 215-4.

SS 21 5-9 Appearance tickets.

Upon probable cause that any provision of this article has been or is being violated, any law enforcement officer or the Animal Control Officer of the City of Port Jervis is hereby authorized to issue an appearance ticket, on a form prescribed by the Animal Control Officer, directing the alleged violator to appear to answer such charge in the Port Jervis City Court.