

## Chapter 102

### DOGS

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[HISTORY: ADOPTED BY THE TOWN BOARD OF THE TOWN OF NEWFANE 4-29-71 by L.L. No.1-1971 (ch. 11 of the 1971 code). REPEALED and REPLACED on \_\_\_\_\_ by L.L. No. \_\_\_\_\_, 2018.]

§ 102-1. Purpose.

The Town Board of the Town of Newfane 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 Newfane.

§ 102-2. Authority

This local law is enacted pursuant to the provisions of section 124 of Article 7 of the Agriculture and Markets Law of the State of New York

§ 102-3. Title.

The title of this law shall be, "Dog Control Law of the Town of Newfane".

**§ 102-4. Definitions.**

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, as amended by this Local Law, and as amended thereafter.

B. Confined. That such animal is securely confined or restrained and kept on the owner's premises, whether 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 therefrom.

C. Dog. Dog shall mean male and female, licensed and unlicensed, members of the species *Canis familiaris*.

D. Dangerous Dog as is defined in §123 of the Agriculture and Markets Law.

E. Dog Control Officer. Any person authorized by the Town Board. of the Town of Newfane from time to time to enforce the provisions of this Local Law or provisions of the Agriculture and Markets Law.

F. Owner. The party purchasing the license, unless the dog is or has been lost and such reported to the Dog Control Officer and reasonable search has been made. If an animal is not licensed, the term of "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 of Newfane. Any person owning or harboring a dog for a period of one (1) 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 Chapter shall be owned by a minor, 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 the said dog and violation of this Local Law.

G. Recreational Areas. Recreational areas shall mean any real property owned by the Town of Newfane, which is used for recreational purposes by the public, including, but not limited to, parks or playgrounds.

H. Run at Large. Run at large shall mean to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

I. School Premises. Any real property situate within the Town of Newfane, which is used for educational purposes or purposes incidental thereto.

J. Town of Newfane is the area within the corporate limits of the Town of Newfane.

K. Harbor. To provide food or shelter to any dog.

#### **§ 102-5. Restrictions.**

It shall be unlawful for any owner of any dog in the Town of Newfane to permit or allow such dog to:

A. Run at large unless the dog is restrained by an adequate leash, or unless it is accompanied by its owner or a responsible person able to control it by a command. 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. Engage in habitual loud howling, barking, crying or whining or conduct itself in such manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog, or to disturb the public peace.

C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers or other property not belonging to the owner of such dog.

D. Chase, jump upon or at, or otherwise harass any 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.

E. Habitually chase, run alongside of or bark at motor vehicles, cyclists or pedestrians while on a public street or highway or upon public or private property, other than property of the owner or harbinger of said dog.

F. Create a nuisance by defecating, urinating or digging on public property or private property of persons other than said owner.

G. If a female dog, be off the owner's premises when in heat.

H. Be at large on any school premises or recreational areas, or sidewalks adjacent thereto, unless said dog is on a leash.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by §102-5 of this Local Law shall be presumptive evidence against the owner or harbinger of such dog that he/she has failed to properly confine, leash or control his/her dog.

#### **§ 102-6. Dangerous Dogs.**

Dogs believed to be dangerous to human beings, domesticated or protected animals will be proceeded against pursuant to section 123 of the Agriculture and Markets Law.

**§ 102-7. Enforcement.**

This Local Law shall be enforced by any dog control officer, police officer, or peace officer when acting pursuant to his/her special duties.

**§ 102-8. 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 Agriculture and Markets Law.

B. Every dog seized shall be properly cared for, 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, whether or not such owner chooses to redeem his/her dog, to the Town Clerk of the Town of Newfane, pursuant to Section 118 of the Agriculture and Markets Law.

E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.

F. No action shall be maintained against the Town of Newfane, any dog control officer, police officer, or peace officer when acting pursuant to his/her special duties, or any other agent or officer of the Town of Newfane, or person under contract to said Town of Newfane, 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 the Agriculture and Markets Law.

**§ 102-9. Appearance Ticket.**

Any dog control officer, peace officer when acting pursuant to his/her special duties, or any police officer observing a violation of this local law in his/her presence or having received a complaint from someone having observed a violation of this Local Law, shall issue and serve an appearance ticket for such violation.

**§ 102-10. Complaint.**

A. Any person who observes a dog in violation of this Local Law may also file a complaint under oath with a Town Justice specifying the nature of this 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 owner to appear in person before him/her for a hearing, at which 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.

A violation of any order issued by a Town Justice under the provisions of this § 102-10, shall be an offense punishable, upon conviction thereof, as provided in § 102-11 of this Local Law.

#### § 102-11. Penalties.

A conviction of a violation of any provisions of this Local Law shall be deemed an offense and punishable by a fine not exceeding one hundred (\$100.00) dollars, and/or jail term of fifteen (15) days for the first offense, and three hundred (\$300.00) dollars and/or a jail term of thirty (30) days for each offense thereafter, and the owner or harbinger of a dog if so convicted shall be liable for all damages arising from said violation.

#### § 102-12. Separability.

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

#### § 102-13. Fees.

An applicant for either a new dog license or a renewal of an existing license after January 1, 2011, shall pay to the Town Clerk at the time of making said application, the following total fees:

- A. License and tag fees for each neutered or spayed dog shall be \$8.50.
- B. License and tag fees for each unsprayed or unneutered dog shall be \$18.50.

(A New York State fee of \$1.00 for spayed or neutered dogs and a \$3.00 for unsprayed or unneutered dogs is mandatory. However, these fees are already included in the above License Fee.)

**§ 102-14. Authority to set fees by Resolutions.**

Pursuant to Municipal Home Rule Law, by adoption of this section, the Town of Newfane, hereby authorizes the Town Board of the Town of Newfane, to establish by resolution, a schedule of dog license fees, enumeration fees, dog redemption fees and tag replacement fees. The Town of Newfane may exercise this authority as needed throughout the year.

**§ 102-15. Licensing Enforcement.**

A. **Licensing Renewals:** The Town Clerk shall periodically review the records to ascertain dog owners who have failed to renew dog licenses within the prescribed time period, and shall initiate enforcement thereof by mailing a ten (10) day notice of delinquency to the dog owner of record. If the license is then not renewed within ten (10) day period, the Dog Control Officer will initiate prosecution of such act as a violation in accordance with section 119 of the Agriculture and Markets Law, and this Local Law.

B. The Town of Newfane Dog Control officer will, at the beginning of each month, compile a list to ascertain dog owners to be delinquent. Dog owners discovered to be in violation of Agriculture and Markets Law or this Local Law, will be served or mailed a ten (10) day notice of delinquency requiring the owner to come into compliance. Should the dog owner fail to be in compliance within the said ten (10) day period, the Dog Control Officer will initiate prosecution of such act as a violation, in accordance with section 119 of the Agriculture and Markets Law and this Local Law.

**§ 102-16. Repealer.**

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Newfane and they shall be, upon the effectiveness of this Local Law, null and void.

**§ 102-17. Effective Date.**

This Local Law shall be effective immediately upon filing with the Secretary of State.

DOG CONTROL

ASSISTANT DOG CONTROL

Jeffrey Newman

or

Rick Smith

(716)807-6270

(716)523-4019

If no answer, please leave your name, telephone number, and reason for the call.

Your dog has been given a Town ID tag which he/she must wear at all times. Should your dog get lost, call the Town Clerk's Office at (716)778-8822 option 2 to see if he/she has been brought to our kennel.

IF YOUR DOG IS WEARING THE ID TAG WE CAN CONTACT YOU.

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County  City  Town  Village  
(Select one.)

of NEWFANE, NEW YORK

Local Law No. 2 of the year 2018

A local law TO AMEND Chapter 102, DOGS, OF THE CODE OF THE TOWN OF NEWFANE,  
(Insert Title)  
§ 102-10. A. and B

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of NEWFANE, NEW YORK, hereby AMENDS § 102-10 A. and B. as follows:

A. Any person who observes a dog in violation of this Local Law may also file a complaint under oath with the Dog Control Officer specifying the nature of this 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 Dog Control Officer of any such complaint, he/she shall investigate said complaint and/or summon the owner to appear in person before the Town Justice for a hearing, at which 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 cooler and leash at all times whether on or off the owner's property.
2. The dog be confined to the premises of the owner
3. Such other remedy as may be warranted by the circumstances of the case.

A violation of any order issued by a Town Justice under the provisions of this § 102-10, shall be an offense punishable, upon conviction thereof, as provided in § 102-11 of this Local Law.

This Local Law shall become effective immediately upon filing with the Secretary of State

If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2018 of the ~~(County)~~(City)(Town)(Village) of Newfane, New York was duly passed by the Town Board of the Town of Newfane, NY on April 25 2018, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_  
*(Name of Legislative Body)*  
(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted  
*(Elective Chief Executive Officer\*)*  
on \_\_\_\_\_ 2018, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_  
*(Name of Legislative Body)*  
(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_  
*(Name of Legislative Body)*  
(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



**5. (City local law concerning Charter revision proposed by petition.)**

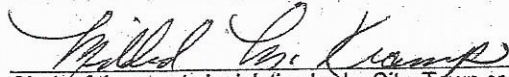
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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 \_\_\_\_\_ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: April 25, 2018

(Seal)