

**RESOLUTION**

Councilman Beck offered the following resolution which was seconded by Councilman Jessup, who moved its adoption:

WHEREAS, a local law was introduced entitled LOCAL LAW NO. 3 OF THE YEAR 2010, OF THE TOWN OF LAGRANGE, DUTCHESS COUNTY, NEW YORK AMENDING THE TOWN CODE TO ADD A NEW CHAPTER 75 REGULATING DOG PARKS.

WHEREAS, a public hearing in relation to said local law was held on July 14, 2010 at 7:30 p.m., prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of LaGrange for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

Section 1. The LaGrange Town Code is amended to add the following new Chapter 75 entitled Dog Parks, and reading as follows:

**Section 75-1. Purpose.**

The purpose of this Chapter is to implement policies and regulations for municipal dog parks established by the Town. The Chapter applies to any Town-owned and operated dog park, or

any portion of a multi-use park of the Town where an area is designated as a dog park by fencing and signage.

**Section 75-2. Applicability.**

This Chapter applies to municipal dog parks, and it does not supersede the obligations of dog owners or handlers under either Chapter 69 of the Town Code or under Article 7 of this state's Agriculture and Markets Law. With the exception of the fact that dogs are allowed to be off leash within the fenced area of a dog park, these other provisions of state statute and town code, regarding animal behavior and dog owner responsibility, are applicable to all users of dog parks. The behavior of a dog as a dangerous dog within the meaning of Article 7 of the Agriculture and Markets Law, and the enforcement and remedies pertaining thereto, shall be equally applicable to behavior of unleashed or leashed dogs within a dog park.

**Section 75-3. Definitions.**

ADULT DOG - a dog over 12 months of age.

DANGEROUS DOG - a dog which without justification attacks a person, companion animal, farm animal and causes physical injury or death or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animal, or without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death. It is the intent of this definition that a dangerous dog for purposes of this Chapter shall be the same as defined within Article 7 of this state's Agriculture and Markets Law, and that the terms physical injury or serious physical injury shall have the same meaning as set forth in that statute.

DOG PARK - a fenced and enclosed area either existing independently, or forming a part of a town park, that has been designated by the Town for use as an off-leash dog area for the exclusive use of dogs and their handlers.

ENFORCEMENT OFFICER - the Town's Recreation Director, a police officer or animal control officer.

HANDLER - the person who accompanies a dog for the purpose of its supervision. The handler shall either be the owner of the dog or a responsible person permitted by the owner to bring the dog to the dog park. Any liability of the handler under this Chapter shall not be forgiven or excused because the handler did not, in reality, possess the consent of the dog's owner.

OFF-LEASH AREA - the fenced, secured section of a dog park where the dog is allowed to exercise without a leash and under supervision of a handler.

ON-LEASH AREA - any portion of the dog park not included within the fenced and secured off-leash area.

PIT BULL - a dog meeting any of the following standards:

1. An American Pit Bull Terrier
2. A Staffordshire Bull Terrier
3. An American Staffordshire Terrier
4. An American Bulldog, or
5. Any other pure bred or mixed breed dog whose appearance and physical characteristics is predominately those of any of the dogs listed above, or is a combination of any of the dogs listed above.

Inclusion of this definition is not equivalent to a breed-specific designation of pit bulls as a "dangerous dog" within the meaning of Article 7 of the Agriculture and Markets Law. Instead this definition is provided merely in connection with regulation of access of certain dogs to an off-leash area of an enclosed dog park where human anxiety and fear of an unleashed type of breed can be expected (a) to discourage and chill use and enjoyment of the facility by many residents, and (b) to contribute to heightened and more frequent incidents of unstable behavior among dogs and handlers within a confined area where incidents of instability involving this particular breed may engage the significant strength and destructive power characterizing the breed's anatomy.

PUPPY - a dog between birth and 12 months of age.

SHARED-USE OR MULTI-USE PARK - a park that has playground equipment, an athletic playing field(s), or any other use that attracts children, and which facility includes a designated dog park.

**Section 75-4. Designation and Regulation of Dog Parks.**

- A. The Town Board may designate, establish and improve dog parks as recreational amenities. In so doing, the Town Board shall segregate and secure a separate area as a off-leash area for dogs and their handlers, and the Town Board may exercise that function either through the establishment of property for exclusive use as a dog park, or by the segregation and setting aside of area for a dog park within lands devoted to other municipal uses, recreational or otherwise.
- B. In establishing dog parks for the exclusive use of dogs and their handlers, the Town Board shall consider the property's size, location and frequency of use by members of the public, the primary, actual or designed use of each parcel of land prior to the establishment of a dog park, and the character and proximity of neighboring uses of land.
- C. The recreation director shall post signs that notify the public of the separation between off-leash or on-leash areas for dogs.
- D. Off-leash areas shall be securely and appropriately fenced to avoid an unleashed dog's escaping the control of its handler and exiting of the off-leash area.
- E. If practical and funds are made available, the recreation director may designate a separate, fenced and secured section within a dog park to accompany dogs that weigh 20 pounds or less, but this is not an essential standard or goal.
- F. The recreation director may designate, if feasible and funds are available, a play and training section for the protection of puppies that shall be segregated and secured from other areas of the dog park, although this is not an essential standard or goal.
- G. The Town Board may adopt by resolution more specific rules and regulations pertaining to the use of dog parks. The failure of the Town Board to adopt regulations shall not render ineffective the provisions of this Chapter.
- H. Activities within the dog park shall be limited to exercise of dogs accompanied by handlers and others, and there shall

be no other allowable recreational activities such as ball playing or other recreational activities.

- I. The maximum hours of usage of a dog park shall be dawn to dusk, unless otherwise fixed by regulations adopted by Town Board resolution.

**Section 75-5. Obligations of Handler.**

- A. Handlers shall be responsible for all actions and behavior of their dogs, and shall be responsible and liable for all injuries or damage caused by their dogs while on Town property.
- B. Handlers shall be responsible for removing any feces, vomit or other waste material produced by their dogs, and depositing such materials in an appropriate container.
- C. Handlers shall keep their dogs on a leash no longer than six feet in length when entering the dog park facility and before moving the dogs into the off-leash area.
- D. While dogs are in the off-leash area, handler shall control their dogs by sound or voice command.
- E. Handlers shall closely supervise minor children who accompany them to the dog park.
- F. The Town of LaGrange, and its officers and employees, shall not be liable for any injury or harm to any person or dog incurred or caused by any person or dog entering or remaining in the on-leash or off-leash areas of a dog park. Persons who make use of, or register to use, dog park facilities of the Town shall be required to sign a waiver and release of liability on behalf of the Town for such injury or harm. Failure to be presented, or to sign, a waiver and release shall not in any way limit the Town's, and its officers' and employees', exemption from liability under this sub-section.
- G. The recreation director, or his designee, shall have the right to deny any person or dog access to any or all dog parks of the Town for breach of the policies and regulations set forth in this Chapter, or of separate regulations adopted by resolution of the Town Board.

- H. The actual owner of any dog, if different than the handler, shall be responsible and liable vicariously for the actions and conduct of the dog or handler which results in injury or damage in cases where the owner consented to the handler's possession and supervision of the dog.

**Section 75-6. Prohibition of Alcohol, Drug Use, or Food.**

- A. Possession or consumption of alcohol or drugs is prohibited in dog parks at all times. All handlers shall be free from the influence of alcohol or drugs while escorting, transiting, training or accompanying a dog in a dog park.
- B. No food, including dog food or treats, shall be allowed in the off-leash area of a dog park.

**Section 75-7. Prohibition of Noise-Producing Devices.**

- A. In order to promote the ability of each handler to keep a dog under voice and sound control within the dog park, the use of any noise-producing devices including radio, television sets, musical instruments, boom boxes, or equipment driven by motors or engines is prohibited in a dog park.
- B. This section shall not prohibit the use of law enforcement equipment, equipment for custodial maintenance, or the use of mobility enhancing devices for disabled individuals.

**Section 75-8. Dog Vaccinations.**

- A. Before entering a dog park, each dog shall have current vaccinations required by law, and each handler shall be prepared to provide documentation to enforcement officers of the current vaccinations upon request. Suitable documentation shall consist of veterinary records, vaccine certificates and/or receipts identifying vaccinations issued by a licensed veterinarian. Dogs shall be free of internal parasites upon entering a dog park. Dogs shall have been treated within the preceding 30 days of entry for control of fleas, ticks or other external parasites.
- B. Required vaccinations shall include distemper virus, infectious canine hepatitis, leptospirosis, parvo virus,

together with any other vaccinations required by state or county law which are not included among the aforesaid. Unless required by state or county law, it is recommended but not required that dogs have current vaccination for parinfluenza and bordetella.

**Section 75-9. Responsibilities of Handlers; Control of Dogs.**

- A. Any dog transited to or from the handler's vehicle, or outside of a designated off-leash area, shall be on a leash no longer than six feet.
- B. Handlers shall carry a leash no longer than six feet for each dog in the handler's care in the off-leash area.
- C. A handler shall not bring more than two dogs into the off-leash area at any time.
- D. To prevent injury, a handler shall remove pinch or choke collars from a dog before entry to the off-leash area.
- E. A handler shall not bring a puppy under the age of 16 weeks into any dog park.
- F. Female dogs in estrus (commonly referred to as "in heat") shall be prohibited from entering any portion of a dog park, either on-leash or off-leash areas.
- G. When the handler's dog is in the off-leash area, the handler shall remain within the off-leash area, and the handler shall keep dogs within view and under verbal, sound or signal control at all times.
- H. Each handler in the off-leash area shall be at least 18 years of age. Minor children entering the off-leash area must be accompanied by a responsible adult. Children six (6) years of age and under are not allowed in the off-leash area.
- I. All dogs shall have valid dog license tags attached to it.
- J. Handlers shall comply with all other dog park rules. Rules shall be posted by the recreation director in an easily visible location of each dog park.

**Section 75-10. Dog Behavior.**

- A. Handlers shall insure that dogs demonstrate safe behavior and social interaction at all times toward people and other dogs.
- B. Dogs displaying aggressive behavior toward people or other dogs shall be immediately leashed and removed from the off-leash area, after which they shall directly leave the town park.
- C. Local or state regulations pertaining to dangerous dogs are applicable to all dogs and handlers entering a dog park. Those state or local regulations are not suspended while a dog or handler is within an off-leash area.
- D. The recreation director, his designee, or any enforcement officer may issue a written notice against trespass barring future entry of any handler or dog in situations where a dog has displayed aggressive, dangerous or vicious behavior towards any other dog or person within a dog park. Causation of actual physical injury is not a prerequisite to issuance of the notice. Persons receiving such a trespass notice shall be liable to prosecution for trespass under this state's Penal Law in the event of disobedience or violation of that notice.

**Section 75-11. Dog Park Entry Requirements; Fees.**

- A. Each dog entering a dog park shall have a current dog license and tag issued pursuant to Article 7 of the state's Agriculture and Market Law. The dog license tag shall be attached to the dog's collar, and such collar shall remain on the dog at all times while in the dog park or moving to or from the dog park.
- B. Each dog entering a dog park shall wear an individual dog park entry tag indicating that the annual dog park entry fee has been paid to the Town. Payment of the annual dog park entry fee entitles the handler to a single, colorized dog park entry tag applicable on to the dog to which it was issued. Entry tags shall be issued on a calendar-year basis. The dog park entry tag shall be colored to denote the calendar year for which valid. There shall be a one month's grace period (January) during which time a dog may still have the dog park entry tag for the previous calendar

year. The dog park entry tag allows the authorized dog to enter any Town dog park unless a handler or owner of the dog has been issued a trespass notice relating to that behavior. Applications for an initial dog park entry tag shall be made to the recreation director, or such other person as designated by the Town Board by resolution. Initial applications shall include photographs of both side profiles of the animal's full body, and a photograph of the face of the dog facing forward. Applications shall be accompanied by proof of the vaccinations required by this Chapter. Applications shall identify the breed, or mixed breeding, of each dog. Any misrepresentation on the application for dog park entry tags shall be a violation of this Chapter, and may additionally expose the applicant to liability for filing of a false instrument under this state's Penal Law.

C. Dog park entry tag fees:

LaGrange Resident Fees:

\$25.00 for 1<sup>st</sup> dog.  
\$15.00 for additional dogs.

Residents of the Town of Poughkeepsie, Town of Pleasant Valley, Town of Union Vale, Town of Beekman, Town of East Fishkill and Town of Wappinger fees:

\$50.00 for 1<sup>st</sup> dog.  
\$30.00 for additional dogs.

Residents of municipalities other than those listed above shall not be entitled to entry to a dog park, based on the resource limitations of the Town with respect to such facilities.

- D. If the ownership of the dog changes, the new owner shall complete an application, provide a new dog picture, and pay the administrative fee to the Town to transfer ownership of the dog and its dog park entry tag.
- E. All fees paid to the Town of LaGrange will be deposited in the general fund of the Town of LaGrange.
- F. Fees charged in this subsection may be amended by resolution of the Town Board. The Town Board may establish higher fees for dog owners residing outside the Town.

G. Dog park entry tags shall not be available for pit bulls as defined in this Chapter.

**Section 75-12. Violation of Regulations; Penalties.**

A. Each separate violation of the provisions of this Chapter is a violation and upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 15 days for a first offense. Maximum fines shall be \$750 for a second offense and \$1,500 for a third or greater offense.

**Section 75-13. Severability.**

If any provision of this article is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.

Section 2. This local law shall take effect upon filing with the Secretary of State.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate executed by the attorney for the Town of LaGrange that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Wagner	ABSENT
Councilman Luna	ABSENT
Councilman Beck	AYE
Councilman O'Hare	AYE
Councilman Jessup	AYE

DATED: LaGrangeville, New York  
July 14, 2010

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MARGARET SCHMITZ  
Deputy Town Clerk

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