

**VILLAGE OF BROOKVILLE  
LOCAL LAW 2-2016  
AMENDMENT TO CHAPTER 98,  
"DOGS AND OTHER ANIMALS"**

A local law to amend Chapter 98, entitled "*Dogs and Other Animals*," of the Code of the Incorporated Village of Brookville to modify the remedy and penalty provisions, and make other minor revisions.

**BE IT ENACTED** by the Board of Trustees of the Incorporated Village of Brookville as follows:

**SECTION 1.** Chapter 98, entitled "*Dogs and Other Animals*," of the Code of the Incorporated Village of Brookville as last amended by Local Law No. 3 of the year 2014 is hereby amended as follows:

Chapter 98

DOGS AND OTHER ANIMALS

[HISTORY: Adopted by the Board of Trustees of the Village of Brookville 7-1-1969. Amended 7-24-2012 by Local Law 2-2012.]

GENERAL REFERENCES

Noise -- See Ch. 134.

**§ 98-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ANNOYING ANIMAL** - An animal which, when it is not on the premises of its owner or custodian:

A. Without being provoked, harasses or threatens a person in such a manner so as to create the apprehension of fear or bodily injury to such person; or

B. Deposits animal waste on public property or private property of a person other than the animal's owner or custodian.

C. Engages in habitual loud howling, barking, crying or whining or conducts itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of a reasonable person of normal sensitivities other than the owner of such dog.

D. Uproots, digs, or otherwise damages any vegetables, lawns, flowers, garden beds, or other real or personal property not belonging to the owner of such dog without the consent or approval of the property owner.

CONFINED- Securely confined or restrained and kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and arranged so that the animal cannot reach or endanger any person or damage any adjacent premises or any street, way or place, or, if the animal is being transported by the owner, it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

DOMESTIC ANIMAL- An animal that has been tamed and kept by humans as a work animal, food source, or pet. For purposes of this chapter, domestic animals shall include 1) domestic animals as defined by Section 108 of the New York State Agriculture and Markets Law; 2) companion animals as defined by Section 350 of the New York State Agriculture and Markets Law; and 3) farm animals as defined by Section 350 of the New York State Agriculture and Markets Law.

RUNNING AT LARGE - An animal shall be deemed to be "running at large" when it is not on the premises of its owner and is not on a leash and under the immediate control and direction of its owner or custodian.

VICIOUS ANIMAL - An animal shall be presumed to be vicious if:

A. While running at large it has once bitten any person or has twice made an unprovoked attack upon and bitten a domestic animal; or

B. It has made at least three (3) unprovoked attacks, unrelated to protection of the person, family or property of the animal's owner, on persons or domestic animals at any place within the village.

#### **§ 98-2. Running at large.**

No person shall permit any vicious or annoying animal to run at large within the village.

#### **§ 98-3. Animal Waste.**

No person owning, possessing, harboring or having custody or control of any animal shall permit such animal to deposit any animal waste, as that term is commonly understood, on any public street, road, or highway, including the rights-or-way thereof, or other public place, or private property owned by another person, located within the Village, unless such waste is immediately removed in a sanitary manner.

#### **§ 98-4. Complaints of vicious animals.**

Any person claiming that an animal is vicious or annoying may file a complaint, under oath or affirmation, with the Police Department operating within the village or the Village Clerk, who shall forward said complaint to the Village Justice. Upon receipt by the Village Justice, he or she then immediately determine if there is probable cause to believe the animal is vicious, and if so, shall issue an order to any animal control officer, peace officer acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such animal and hold the same pending judicial determination as herein provided. Whether or not the Justice finds there is probable cause for such seizure, he or she shall issue a summons requiring the owner of, or person harboring, such animal to appear before the Village Justice on a day certain for a hearing to determine if the animal is vicious or annoying, and whether there was a violation of §98-2 or other section of this chapter. If the animal was ordered to be seized, such hearing shall be held with five (5) but not less than (2) days from the date of issuance of the summons. In making the determination of whether the animal is vicious or annoying, the Village Justice may consider any facts occurring within two (2) years prior to the date of issuance of the summons. If the animal is determined to be vicious or annoying, the Village Justice shall proceed as provided for in §98-5 and §98-6.

#### **§ 98-5. Judicial determinations.**

A. If, after a hearing, the Village Justice shall determine that such animal is vicious or annoying, he or she shall enter a judgment declaring such animal to be vicious or annoying and ordering the owner of and any person harboring said animal to prevent said animal from running at large.

B. An animal shall not be declared vicious if the Village Justice determines the conduct of the animal (1) was justified because the threat, injury or damage was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the animal or upon the property of the owner or custodian of the animal; (2) was justified because the injured, threatened or killed person was tormenting, abusing, assaulting or physically threatening the animal or its offspring, or has in the past tormented, abused, assaulted or physically threatened the animal or its offspring; (3) was justified because the animal was responding to pain or injury, or was protecting itself, its owner, custodian, or a member of its household, its kennels or its offspring; or (4) was justified because the injured, threatened or killed domestic animal was attacking or threatening to attack the animal or its offspring. Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert shall be relevant to the Village Justice's determination as to whether the animal's behavior was justified pursuant to the provisions of this subdivision.

C. An animal shall not be declared vicious based upon an attack of a domestic animal if both animals are owned by the same person or if such attack occurs on the property of the attacking or biting animal's owner or custodian.

#### **§ 98-6. Penalties for offenses and remedies.**

If any animal has been found to be vicious or annoying as provided in this chapter or is in violation of any order from the Village Justice or other provision of this chapter, the owner of and any person harboring said animal shall be responsible in damages for any injury or damage caused by such animal, and shall be liable for a fine in accordance with § 9-15(C) of Chapter 9 of this Code. After a finding that the animal is vicious or annoying, the Village Justice may also order said animal to be confined on its owner's property, removed from the Village, or destroyed, or may make any other order pursuant to the remedies found in subsections 2 and 3 of §123 of the New York State Agriculture and Markets Law, regardless of whether the vicious or annoying animal is a dog or any other pet. Notwithstanding, no animal shall be ordered to be destroyed pursuant to this section except by humane euthanasia and only if the aggravating circumstances under subsection 3 of §123 of the New York State Agriculture and Markets Law are established.

**§ 98-7. Destruction of vicious animals.**

The members of the Police Department are hereby authorized to destroy any vicious animal when it is necessary for the protection of any person or property.

**SECTION 2. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstances, directly involved in the controversy in which such judgment or order shall be render.

**SECTION 3. Effective Date**

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