

## Chapter 80, ANIMAL CONTROL

[HISTORY: Adopted by the Board of Trustees of the Village of Horseheads 10-27-2005 by L.L. No. 6-2005.<sup>EN(1)</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Appearance tickets -- See Ch. 4.

Noise -- See Ch. 163.

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## ARTICLE I, General Provisions

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### § 80-1. Definitions.

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

**DOMESTICATED PET** -- Any animal, bird, insect, reptile, or fish, customarily kept in the home or place of residence, which are not vicious, dangerous or otherwise obnoxious, objectionable or offensive.

**FAMILY** -- One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide, stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

**OWNER** -- Every person having a right of property in the subject insect, animal, reptile, fish or fowl and every person who has an insect, animal, reptile, fish or fowl in his keeping or who harbors the same. An insect, animal, reptile, fish or fowl owned by one or more minors shall be deemed to be in the custody and control of the minor's parents or other head of the household where the minor resides.

**PERSON** -- An individual, firm, partnership, corporation or association of persons.

**PRIVATE PROPERTY** -- All property within Village boundaries which is not owned by the Village, including but not limited to all residential and commercial property, private streets and sidewalks and the grassy areas located adjacent to such streets and sidewalks, rights-of-way and any common area of a condominium or cooperative.

**PUBLIC PROPERTY** -- Any property owned, occupied or controlled by the Village of Horseheads or other governmental entity, including but not limited to parks, streets, sidewalks

and grassy areas adjacent to streets and sidewalks.

**§ 80-2. Keeping of animals restricted.**

No person shall keep, pasture, breed, raise, harbor, stable or maintain any bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles or any swine, horses, cows, mules, sheep, goats or any other animals, except domesticated pets, within the Village without permission of the Board of Trustees. Permission shall be revocable at any time if it appears that such keeping, pasturing, breeding, raising, harboring, stabling, or maintenance is objectionable or offensive by reason of noise, smell, health, safety or other cause. This section shall not apply to any public pound or animal hospital operated by a New York licensed veterinarian located within the Village.

**§ 80-3. Animals at large prohibited.**

No person who owns, keeps, harbors, has the care/custody/control of or has a property right in the following creatures shall suffer any cattle, horses, goats, sheep, swine or poultry to be at large within the Village.

**§ 80-4. Noise disturbance.**

No person owning, harboring or keeping any animal (except a dog as defined in Article II hereof), bird, insect or reptile shall suffer, permit or allow such creature to disturb the peace and quiet of the neighborhood or other persons by yowling, howling or making other loud or unusual noises for an unreasonable period of time or at any unreasonable time or in an unreasonable manner, nor shall such person suffer, allow or permit such creature to conduct itself in such a manner as to habitually annoy any other person. The factors set forth in § 80-10B(2)(a) through (g) hereof shall be considered in determining reasonableness.

**§ 80-5. Nuisances.**

No person owning, keeping, harboring or having the care, custody and/or control of any animal (except a dog as defined in Article II hereof), bird, insect or reptile shall suffer, permit or allow such creature to commit any nuisance or cause damage or destruction to, or soil, defile, or defecate on (unless the soil waste is promptly picked up and removed by the aforesaid person) any public street, building or park or any private property except with the consent of the owner thereof.

**§ 80-6. (Reserved)**

**§ 80-7. Penalties for offenses.**

Any person violating any provision of this article shall be punished as provided in Chapter 1, General Provisions, Article II, Penalties, of the Village Code.

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**ARTICLE II, Dogs**

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**§ 80-8. Statutory authority; purpose.**

- A. This article is adopted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York.
- B. Its purpose shall be to promote the public health, safety and welfare of the community, including the protection and preservation of the property of the Village and its inhabitants and of peace and good order, by regulating and controlling the activities of dogs within the Village and provided for enforcement thereof.

**§ 80-9. Definitions.**

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

**AT LARGE** -- Any dog without a license is considered to be running at large. Any dog with or without a license shall be considered to be running at large when it is off the property of the owner and not restrained by a leash.

**CONFINED** -- The state in which a dog is 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 so arranged that the dog cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or, if the dog 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.

**DOG** -- Any member of the species *Canis familiaris*, male or female.

**DOG CONTROL OFFICER** -- Any person authorized by the Village of Horseheads or Town of

Horseheads from time to time to enforce the provisions of this article or the provisions of the Agriculture and Markets Law.

HARBOR -- To provide food or shelter to any dog.

OWNER -- Person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the licenses for such dog unless the dog is or has been lost, and such loss was promptly reported to a dog control officer or code enforcement officer and a reasonable search has been made. If a dog is not licensed, the term "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 or, harbors, or is otherwise responsible for any dog which is kept, brought or comes within the Village.

PRIVATE PROPERTY -- All property within Village boundaries which is not owned by the Village, including but not limited to all residential and commercial property, private streets and sidewalks and the grassy areas located adjacent to such streets and sidewalks, rights-of-way and any common area of a condominium or cooperative.

PUBLIC PROPERTY -- Any property owned, occupied or controlled by the Village of Horseheads or other governmental entity, including but not limited to parks, streets, sidewalks and grassy areas adjacent to streets and sidewalks.

**§ 80-10. Prohibited acts.**

Any owner of a dog or any other person who harbors any dog in the Village of Horseheads shall be in violation of this article if such dog:

- A. Is not restrained by an adequate collar and leash or confined when not on the property of the owner or any other person harboring or having custody or control of the dog.
- B. Engages in unreasonable howling and/or barking or other noise, audible beyond the property line of the property where the dog is harbored, that disturbs or annoys any person of reasonable sensitivities other than the person owning or harboring such dog. Unreasonable howling or barking or other noise shall include but not be limited to, the following:
  - (1) Howling, barking or other noise made by a dog and continuing for more than five cumulative minutes in any sixty-minute period; or
  - (2) Howling, barking or other noise made by a dog which is determined to be unreasonable, taking into account the following factors:
    - (a) The proximity of the noise to residential property.

- (b) The time of the day or night when the noise occurs.
  - (c) The time duration of the noise.
  - (d) Whether the noise is repetitive.
  - (e) The volume of the noise.
  - (f) The existence of complaints concerning the noise from persons living or working in the vicinity of the noise and who are affected by it.
  - (g) Malicious provocation resulting from such activity as trespass, vandalism or badgering.
- C. Causes damage or destruction to public or private property or soils, defiles, or defecates (unless the solid waste is promptly picked up and removed by the owner or other person responsible for the dog) or otherwise commits a nuisance on public or private property other than on the property of the person owning or harboring such dog. This provision shall not apply for a service animal for people with disabilities while in performance of its trained duties, or a dog used for law enforcement purposes while being so used.
- D. Chases or otherwise harasses any person in such manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury when not on the noncommercial property of the person owning or harboring such dog.
- E. Chases, leaps on or otherwise harasses:
- (1) Any bicycle, motorcycle, automobile or any other vehicle or device used by persons for travel or as a conveyance or any riders or occupants thereof.
  - (2) Any cat, dog, or domestic animal.
- F. Is unlicensed when four months of age or older.
- G. Is not wearing a current and valid New York State dog license identification tag while at large, whether or not restrained by an adequate collar and leash.
- H. Is not redeemed within nine days after the owner has been notified, either personally or by mail, that said dog has been seized and impounded pursuant to the Agriculture and Markets Law, § 118.
- I. Harasses, attacks, annoys or otherwise interferes with a service animal for people with disabilities which provides assistance for mobility, and other major life functions, to people with disabilities.

**§ 80-11. (Reserved)**

**§ 80-12. Enforcement.**

All police officers, code enforcement officers, community service officers and dog control officers of the Village of Horseheads or of the Town of Horseheads or others, pursuant to contract with the Village, shall administer and enforce the provisions of this article and for such purpose shall have the authority to issue appearance tickets pursuant to Article 150 of the Criminal Procedure Law. In the event an appearance ticket is issued by a person other than a dog control officer, the issuing person will inform a dog control officer of such issuance. Appearance tickets may require payment by mail of a designated fine or appearance in Village Court and shall be in such form as may be prescribed by law. In assessing a penalty, the Judge of the court may take into account the status, upon proper documentation or other supporting evidence, of an attacked animal as a service animal for people with disabilities which provides assistance in mobility, and other major life functions, to people with disabilities.

**§ 80-13. Evidence.**

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this article shall be presumptive evidence against the owner or harborer of such dog that he has failed to properly confine, leash or control his dog.

**§ 80-14. Minor owner, responsibility of head of household.**

In the event that any dog found to be in violation of this article is owned by a person under 17 years of age, the head of the household in which said person resides shall be deemed to be the owner or person harboring such dog and responsible for the acts of said dog for purposes of this article.

**§ 80-15. Presumption of knowledge of dog being at large.**

The fact that a dog is at large in the Village elsewhere than on the premises of the owner or person harboring such dog shall be presumptive evidence that the dog has been permitted to be at large with the knowledge of the owner or person harboring the dog.

**§ 80-16. Impoundment fees.**

The impoundment fees for any dog impounded pursuant to § 118 of the NYS Agriculture and Markets Law shall be paid by the owner of the dog in the following amounts:

- A. For the first impoundment of any dog owned by the person within a one-year period: \$25.
- B. For the second impoundment of any dog owned by that person within a one-year period: \$50.
- C. For the third and subsequent impoundments of any dog owned by that person within a one-year period: \$100.

**§ 80-17. Penalties for offenses.**

Except as provided in the Agriculture and Markets Law, a violation of this article shall be punished as provided in Chapter 1, General Provisions, Article II, Penalties, of the Village Code excepting that the minimum fine or civil penalty shall be \$25.

## **Endnotes**

### **1 (Popup - Popup)**

Editor's Note: This local law also superseded former Ch. 80, Animals, which was comprised of Art. I, Dog Control, adopted 8-12-1976 by L.L. No. 4-1976, as amended, and Art. II, Control of Animals, adopted 8-11-1977 by L.L. No. 13-1977, as amended.