

ORDINANCE NO. 2017-01

AN ORDINANCE OF THE BOROUGH OF NEW HOPE, BUCKS COUNTY, PENNSYLVANIA AMENDING THE DOG CONTROL ARTICLE OF THE ANIMALS CHAPTER OF THE CODE OF ORDINANCES OF NEW HOPE BOROUGH TO PRESCRIBE DEFINITIONS; TO REQUIRE COMPLIANCE WITH OTHER LAWS RELATING TO DOG CONTROL AND DANGEROUS DOGS; TO REQUIRE ALL DOG OWNERS TO OBTAIN THE REQUIRED DOG LICENSE, AND THAT THE DOG WEAR THE LICENSE AT ALL TIMES; TO ESTABLISH STANDARDS FOR THE DETAINMENT OF LICENSED AND UNLICENSED DOGS; TO REQUIRE ALL DOGS TO BE VACCINATED IN ACCORDANCE WITH STATE LAW; TO REQUIRE ALL DOGS TO BE ON A LEASH WHEN NOT ON AN OWNER'S PROPERTY; TO PRESECRIBE THE PERMITTED TYPES OF DOG LEASHES IN NEW HOPE BOROUGH; TO REQUIRE OWNERS TO CONTROL HIS OR HER DOG, AND NOT ALLOW THE DOG TO RUN AT LARGE IN NEW HOPE BOROUGH; TO AUTHORIZE THE NEW HOPE BOROUGH POLICE DEPARTMENT TO SEIZE DOGS RUNNING AT LARGE; TO AUTHORIZE THE CONFRONTATION OF THREATENING DOGS; TO PRESCRIBE CONDUCT FOR THE HUMANE TREATMENT OF DOGS; TO DESIGNATE CERTAIN DOG OWNERS AS PROBLEM PET OWNERS, AND TO ESTABLISH CRITERIA AND PENALTIES IN CONNECTION WITH SUCH DESIGNATION; AND TO PRESCRIBE VIOLATIONS AND PENALTIES

BACKGROUND:

A. The Council of the Borough of New Hope, Bucks County, Pennsylvania ("Council") has, by various ordinances codified at Article II, Chapter 105 of the Code of Ordinances of New Hope Borough (collectively the "Code"), adopted regulations pertaining to the control of dogs in New Hope Borough.

B. The Council determines that responsible dog ownership is a matter of significant public safety and welfare. If owners of dogs are not responsible with their dogs, persons and other domestic animals could suffer serious injury or even death.

C. To promote the public health, safety and welfare of New Hope Borough's residents and visitors, Council wishes to amend the Dog Control article (Article II) of the Animals Chapter to enact comprehensive regulations modernizing the dog control laws in New Hope Borough.

D. This Ordinance is enacted pursuant to the legislative authority set forth in 8 Pa.C.S.A. §46202(5) and (9).

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby **ENACTED and ORDAINED**, by the Council of the Borough of New Hope, Bucks County, Pennsylvania, as follows:

Section 01: Chapter 105 of the Code is re-organized in accordance with the following:

- A. Existing Article I, Dog Control,” shall be retitled to read “Dogs,” and is amended in full in accordance with Section 02 through Section 15 of this Ordinance.
- B. Existing Article II, Defecation on Public Property, shall be retitled “Animal Feces.”
- C. Existing Sections 105-8 through 105-12, inclusive, shall be renumbered as Sections 105-21 through 105-25.
- D. Sections 105-13 through 105-16, inclusive, of existing Article III, Use of Horses for Commercial Purposes, shall be renumbered as Sections 105-31 through 105-34.
- E. Sections 105-17 through 105-20, inclusive, of existing Article IV, Feeding and Supplying Salt to Deer, shall be renumbered as Sections 105-40 through 105-43.
- F. Sections 105-21 through 105-24, inclusive, of existing Article V, Animal Noise, shall be renumbered as Sections 105-50 through 105-53.

Section 02: New Section 105-1 shall be added to the Code and shall read in full as follows:

“§105-1. Short Title. This Article shall be titled the “New Hope Borough Dog Control Ordinance.”

Section 03: New Section 105-2 shall be added to the Code and shall read in full as follows:

“§105-2. Definitions. As used in this Article I, the following word, terms and phrases, shall have the meanings ascribed to them in this section, unless a different meaning clearly appears from the context:

- A. “Dog” shall mean any commonly domesticated canine animal, whether running at large or domesticated.
- B. “Dog Law” shall mean the Pennsylvania Dog Law, 3 P.S. §459-101 *et seq.*, and the regulations promulgated thereunder found at 7 Pa. Code. §27.1 *et seq.*

- C. "Owner" shall mean any person having a right of property in any dog, any person having the care, control or custody of any dog within New Hope Borough, or any person who permits a dog to remain on or around his or her property or premises. "Owner" shall include a dog's custodian if different than the record owner; and shall include the parent(s) and/or guardians of a minor owner of a dog.
- D. "Running At Large" shall mean any dog being upon any public highway, street, sidewalk, park or any other public property, or upon any private property of another person other than the owner and not being accompanied by and under the control of the owner or any other such person having control. For purposes of control, all dogs must be on a permitted leash when not on the Owner's property.

Section 04: New Section 105-3, Related Laws; Compliance Required, shall be added to the Code and shall read in full as follows:

"§105-3. Related Laws; Compliance Required.

- A. No owner of any dog shall violate any of the laws of this Article, or any of the laws, rules or regulations of the Dog Law applicable thereto, or the Pennsylvania Rabies Prevention and Control Act (3 P.S. §455.1 *et seq.*). Where the provisions of the laws, rules or regulations of the Commonwealth of Pennsylvania are less restrictive than the provisions of this Article, the provisions of this Article shall control.
- B. Nothing in this Article shall be construed to permit any owner or person to possess, keep or maintain any dog in violation of any other ordinance of New Hope Borough."

Section 05: New Section 105-4, License and Tag Required, shall be added to the Code and shall read in full as follows:

"§105-4. License and Tag Required.

- A. No persons shall own, harbor or keep within the geographical limits of New Hope Borough any dog three (3) months or older unless such dog is licensed by the Treasurer of Bucks County, Pennsylvania, and unless such dog wears a collar or harness with a license tag.
- B. The requirements of subsection (A) above shall not apply to any

dog used by any New Hope Borough police officer or any other law enforcement officials in and during the discharge of their official duties.”

Section 06: New Section 105-5, Detainment of Licensed Dogs, shall be added to the Code and shall read in full as follows:

“§105-5. Detainment of Licensed Dogs.

- A. Any New Hope Borough police officer seizing and detaining a dog bearing a proper license tag and/or other permanent identification shall make a reasonable effort to contact the dog’s owner and deliver the dog to its identified owner. If the police officer cannot make contact with the dog’s owner after reasonable efforts, the police officer may, in the police officer’s reasonable discretion, deliver the dog to a licensed kennel that is within or reasonably close to New Hope Borough, while continuing to make reasonable efforts to contact the dog’s identified owner. If the dog is delivered to a licensed kennel, the police officer will notify the owner of the contact information for the kennel.
- B. The owner of a detained licensed dog shall pay a fine as set forth in Section 105-14 (Violations and Penalties) of this Article, and all reasonable fees and expense incurred by reason of its detention to New Hope Borough and/or the kennel before the dog is returned.”

Section 07: New Section 105-6, Detainment of Unlicensed Dogs, shall be added to the Code and shall read in full as follows:

“§105-6. Detainment of Unlicensed Dogs.

- A. Any New Hope Borough police officer seizing and/or detaining an unlicensed dog, of which the owner is not immediately known, shall cause such dog to be promptly delivered to a licensed kennel that is within or reasonably close to New Hope Borough.
- B. Any person who seizes and/or detains an unlicensed dog at any location, or who delivers such dog to a licensed kennel that is within or reasonably close to New Hope Borough, shall immediately contact the New Hope Borough Police Department and advise of the detainment and/or delivery of the unlicensed dog.
- C. Any person may view the detained unlicensed dog during the kennel’s normal business hours. If the unlicensed dog is claimed, the owner shall pay a fine as set forth in Section 105-14 (Violations and Penalties) of this Article, as well as all reasonable expenses

incurred by New Hope Borough and the licensed kennel by reason of its detention.

- D. At any time, the New Hope Borough Chief of Police, or any other authorized representative of New Hope Borough, may request that the Pennsylvania Dog Warden issue a citation under the Dog Law for an unlicensed dog to the owner, if known.”

Section 08: Section 105-7, Vaccinations, shall be added to the Code and shall read in full as follows:

“§105-7. Vaccinations. It shall be unlawful for the owner of any dog to keep, harbor or have in his or its custody or control a dog that is three (3) months or older for longer than fourteen (14) days unless such dog has a current vaccination against rabies with a vaccine as approved by the National Association of State Public Health Veterinarians. Proof of vaccination shall be provided to New Hope Borough upon request.”

Section 09: Section 105-8, Dogs to be on Leash, shall be added to the Code and shall read in full as follows:

“§105-8. Dogs to be on Leash.

- A. A dog shall be restrained by the owner with the use of a leash at all times when not on an owners’ property, and when upon any public or private streets, sidewalks, alleys and public parks of New Hope Borough. The leash must comply with the provisions of subsection B. It shall be unlawful for a dog to not be on a leash when required under this Section, or to be on a leash that does not meet the requirements of this Section.
- B. All leashes must be made of solid material, appropriate in size and strength for the dog, but in no case exceeding six (6) feet in length when fully extended. Appropriate in size and strength means a leash that has a tensile strength of at least three (3) times the dog’s weight or 300 pounds (whichever is less).”

Section 10: New Section 105-9, Duty to Control Dog; Dog Running At Large, shall be added to the Code and shall read in full as follows:

“§105-9. Duty to Control Dog; Dog Running At Large.

- A. Every owner shall control his or her dog. It shall be unlawful for the owner of any dog to allow or permit the dog to run at large in New Hope Borough.

- B. In addition, a dog shall also be considered to be running at large if it is left unattended on a leash, tether, chain, rope or similar device which is tied or otherwise fastened to any tree, parking meter, sign post or other item within the public limits of any street, alley or other public property and the owner of the dog is not immediately adjacent to the dog and in a position to control the dog.
- C. It shall be the duty of the owner of any dog to keep the dog confined or secured on the owner's property so the dog cannot run at large in New Hope Borough. To comply with this section, a dog must be kept on an owner's property or premises within a secure enclosure in such a way so that it cannot escape from the property or premises. This requires keeping the dog within a building, structure or fence. If the dog is outside, this requires keeping the dog inside a fence or other secure enclosure that the dog cannot get through, over and/or under. All fences must comply with all other applicable New Hope Borough Ordinances, including without limitation the Zoning Ordinance.

Section 11: New Section 105-10, Seizure of Dogs Running At Large, shall be added to the Code and shall read in full as follows:

“§105-10. Seizure of Dogs Running At Large.

- A. It shall be the duty of every New Hope Borough police officer and the Pennsylvania Dog Warden to seize, detain or otherwise restrain any dog found running at large in accordance with the provisions and definitions of this Article. In seizing any dog, the acting official shall use reasonable care to prevent harm to the dog.
- B. Any seized dog shall be detained in accordance with the applicable provisions of Section 105-5 (Relating to Licensed Dogs) or Section 105-6 (Relating to Unlicensed Dogs).”

Section 12: New Section 105-11, Threatening Dogs, shall be added to the Code and shall read in full as follows:

“§105-11. Threatening Dogs.

- A. It is not the intent of New Hope Borough to regulate “dangerous dogs” under this Article, as that phrase is defined in the Dog Law. New Hope Borough recognizes that any ordinance purporting to regulate a “dangerous,” “aggressive,” “vicious” or any other description of such a dog falls exclusively under the jurisdiction of the Dog Law.

- B. Notwithstanding subsection A, any dog (including a dangerous dog as that phrase is defined in the Dog Law) that in the opinion of any New Hope Borough police officer or the Pennsylvania Dog Warden that constitutes an immediate threat to public health, safety or welfare, may be killed by the police or Dog Warden.
- C. Any person may kill any dog which he or she sees in the imminent act of pursuing or wounding or killing any domestic animal; wounding or killing other dogs, cats or other household pets; or pursuing, wounding or attacking human beings whether or not such dog bears the license tag required by the Dog Law. There shall be no liability on such person in damages or otherwise for such wounding or killing.”

Section 13: New Section 105-12, Humane Treatment of Dogs, shall be added to the Code and shall read in full as follows:

“§105-12. Humane Treatment of Dogs.

- A. Treatment Generally. It shall be unlawful for any owner to commit an act punishable under the Pennsylvania Cruelty to Animals statute, Title 18 Pa. C.S.A. §5511, as amended. Every owner of a dog shall provide the dog, regardless of how confined, with sufficient and wholesome food that is nutritious for the dog, adequate dry shelter that protects the dog from the elements, fresh and potable drinking water, and medical attention as warranted.
- B. Abandonment. It shall be unlawful for any owner or other person having custody and control over a dog to knowingly abandon a dog, whether healthy, old, maimed, infirmed, sick and/or disabled on such person’s own property or premises without daily care; or by abandonment off such person’s property or premises where the dog may suffer injury, hunger, exposure, or may become a public charge. For purposes of this subsection, “abandon” and/or “abandonment” shall mean the voluntarily relinquishment of a dog with no intention to retain possession, or perform the legal obligation for the care and support of the dog by its owner. It shall include vacating a property or premises and leaving the dog in or at the premises.
- C. Leaving Dog Unattended in Vehicle. It shall be unlawful for any owner or other person to place or confine a dog, or to allow a dog to be placed or confined, in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health of the dog due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal.

- D. Extreme Weather. It shall be unlawful for any owner or other person to leave any dog outside and unattended, or inside a car, during any period in which a severe weather warning has been issued for New Hope Borough by the National Weather Service for a continuous period of greater than one-quarter (1/4) hour. A severe weather warning shall include but shall not be limited to:
- (1) the temperature is either below thirty-two (32) degrees, or above ninety (90) degrees, Fahrenheit, or on days when the heat index (i.e. the combined effects of the temperature and humidity of the air) is seventy-two (72) or greater;
 - (2) during the period of time for which a flood, winter storm or other severe weather event warning has been issued.
- E. Any New Hope Borough police officer finding a dog being held and/or treated in violation of this Section may cite the owner for violating this chapter, obtain a search warrant, pursuant to state or federal law, or use reasonable force to remove the dog from its present condition whenever it appears the dog's health or safety is, or soon will be, endangered and the neglected or endangered dog shall be held pursuant to sections 105-5 and/or 105-6 of this Article."

Section 14: New Section 105-13, Problem Pet Owner(s), shall be added to the Code and shall read in full as follows:

"§105-13. Problem Pet Owner(s).

- A. For purposes of this Section, a "Problem Pet Owner" is a person who has been determined by the Bucks County Court of Common Pleas to have committed (i) three (3) or more separate and unrelated violations of this Article, or of Article II (Relating to Defecation on Property) or Article V (Relating to Animal Noise) of this Chapter, in any thirty-six (36) month period; or (ii) two (2) or more separate and unrelated violations of this Article, or of Article II (Relating to Defecation on Property) or Article V (Relating to Animal Noise) of this Chapter, at any time after having a dog owned by such person designated as a dangerous dog under the Dog Law.
- B. A person shall be designated as a Problem Pet Owner when the Court, upon civil action initiated by the New Hope Borough police department, has conducted an evidentiary hearing, heard and considered evidence to past violations of this Article and the Dog Law by the person, and entered an order determining that the

person has committed the violations described in subsection A above and designating the person as a Problem Pet Owner.

C. Notice of Hearing. A person whom the New Hope Borough police department requests be designated as a Problem Pet Owner shall be provided with written notice of a hearing before the Court, served by any method authorized for the service of original process under the Pennsylvania Rules of Civil Procedure, to the person's last known address, containing the following information:

- (1) The name and address of the person who is the subject of the citation, filing and hearing;
- (2) The names, descriptions and license numbers of any dog(s) owned and/or controlled by the person;
- (3) Brief descriptions of the violations that form the basis of the request;
- (4) If known, notification of the date, time and location of the hearing before the Court; and
- (5) A summary of the impact of designation as a Problem Pet Owner, as set forth in this Section.

D. Pre-Hearing Confinement of Dogs. Upon service of notice pursuant to subsection C, all of the dogs owned by a person whom the New Hope Borough police department seeks to be declared to be a Problem Pet Owner may be impounded and/or seized if the New Hope Borough Chief of Police determines that impoundment and/or seizure is in the interest of public safety or the health and welfare of the dog(s). Upon such a determination by the New Hope Borough Chief of Police, the Chief of Police or his designee may require that all of the dogs be held in a licensed kennel until a hearing is held. If any or all of the dogs are not impounded and/or seized prior to the hearing, the affected owner and/or person shall comply with any and all requirements issued by the New Hope Borough Chief of Police or his designee for the confinement and care of the dog(s) pending the hearing. Any failure to comply with any such requirements is a violation of this subsection D, with each day of non-compliance constituting a separate violation; and may be used in support of the police department's request to designate the person as a Problem Pet Owner.

E. Bar on Licensing or Owning Dog. If, after conducting a hearing, the Court determines that a person should be declared a Problem Pet

Owner, all dog licenses held by that person will be immediately revoked; and it shall be unlawful for that person to license or own any dog, or to have any dog in such person’s residence or place of occupancy, in New Hope Borough for a period of up to sixty (60) months from the date of the entry of that determination. In addition, upon the determination by the Court that a person is a Problem Pet Owner, the Problem Pet Owner must immediately surrender all dogs in his or her possession, or in his or her residence or place of occupancy, to the New Hope Borough police department, and such dog(s) will delivered to a licensed kennel.”

Section 15: New Section 105-14, Violations and Penalties, shall be added to the Code and shall read in full as follows:

“§105-14. Violations and Penalties.

- A. Any owner or other person who violates any provision of this Article shall, upon conviction, pay a fine and be subject to the penalties set forth in this Section and where otherwise specifically provided in this Article. Notices for violations of this Article shall be issued by the New Hope Borough police department.
- B. Violations of this Article shall be punishable by civil penalties in accordance with the following table of fines:

Violation	First Offense	Second and Subsequent Offenses
Dog without license, collar or harness (§105-4(A))	\$25	\$100
Detainment of licensed dog (§105-5(B))	\$50	\$300
Detainment of claimed unlicensed dog (§105-6(C))	\$50	\$300
No vaccinations or proof thereof (§105-7)	\$50	\$300
Dog not on leash (§105-8(A))	\$200	\$600
Dog on prohibited leash (§105-8(B))	\$100	\$300
Dog running at large (§105-9(A))	\$100	\$300
Dog left unattended (§105-9(B))	\$100	\$600

Violation	First Offense	Second and Subsequent Offenses
Abandonment of dog (§105-12(B))	\$200	\$600
Leaving dog unattended in vehicle (§105-12(C))	\$100	\$600
Leaving dog exposed to extreme weather (§105-12(D))	\$100	\$600
Failure to comply with directive while problem pet owner hearing is pending (§105-13(D))	\$200	\$600

- C. If the civil penalty prescribed in subsection B above and imposed by a citation for a violation of this Article is not voluntarily paid to the Borough within ten (10) days of the issuance of the citation, the New Hope Borough police department shall institute civil enforcement proceedings before a Magisterial District Judge by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.
- D. In addition to the fines set forth in subsection B above, if any violation results in or in any way involves the injury or death of a person or other domestic animal, the New Hope Borough police department may issue a citation to the owner for a criminal penalty fine for up to ONE THOUSAND and 00/100 Dollars (\$1,000) for each violation. Enforcement of any citation issued under this subsection D shall be in the same manner provided for by the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.
- E. Each day that a violation of this Article continues, upon an owner having been found liable therefor in civil proceedings, shall be considered a separate violation.
- F. New Hope Borough may recover all court costs, legal fees and any other costs and fees incurred by the Borough to enforce the provisions of this Article.
- G. New Hope Borough may also institute civil proceedings against an owner in equity for injunctive and/or civil relief as necessary to secure compliance with this Article.

H. Nothing in this Article shall be interpreted as limiting the rights of a private property owner to seek civil relief through a court of competent jurisdiction, nor the institution of a private civil proceedings.”

Section 16: In addition, all inconsistent provisions of all other Ordinances and Resolutions of the Borough of New Hope, Bucks County, Pennsylvania are hereby repealed to the extent of the inconsistency. All other provisions of the Ordinances and Resolutions of the Borough of New Hope, Bucks County, Pennsylvania shall remain in full force and effect.

Section 17: The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall have no effect on the remaining provisions of this Ordinance.

Section 18: This Ordinance shall be effective immediately.

ORDAINED and ENACTED this _____ day of _____, 2017.

NEW HOPE BOROUGH COUNCIL

By: _____
Alison Kingsley, President

Attest: _____
Cathryn C. Thomas, Secretary

APPROVED this _____ day of _____, 2017

By: _____
Laurence J. Keller, Mayor