CHAPTER 53: LIABILITY OF ANIMAL OWNERS AND CARETAKERS

INTENT

The number of town residents who have domesticated animals has consistently and continually risen in recent history. Some of those animals are allowed to roam freely onto neighborhood property, causing increased numbers of complaints by other residents. Domesticated animals can cause property damage, personal injury, and nuisance, including but not limited to biting, scratching, or otherwise attacking a person, transmitting disease, including, and carrying ticks.

The constant risk of property damage to property constitutes an impingement of the residents' property rights. While some owners are cognizant of these risks and take proper measures to protect the town's residents, other owners are not as cognizant about their domesticated animal's ability to damage property, cause personal injury, or create a nuisance.

At common law the owners of domesticated animals were not liable for property damage or personal injury resulting from the domesticated animal's actions unless the owner knew, or should have known, that the animal had a propensity to cause certain damage or injuries. This law is intended to change the common law so that residents have a legal remedy for an animal's property damage or personal injury, regardless of the animal's prior acts.

NOW, with this local law, the Town of Camillus will make owners of domesticated animals liable for their animal(s)' property damage, personal injury, and nuisance regardless of the animal's prior actions. This Local Law will supersede the common law and provide a remedy to residents whose property is damaged or who are personally injured by domesticated and/or partially assimilated animals.

ARTICLE I: SHORT TITLE; DEFINITIONS

§ 1 This Local Law shall be known as the "Animal Liability Law"

§ 2 Unless otherwise specified in §3 or elsewhere within this Chapter, all terms will carry the same meanings and definitions as one would use in normal parlance.

§ 3 The following terms have specific definitions as they relate to this chapter:

a. "Domesticated animal" shall mean any animal that a resident owns and/or routinely maintains, harbors, or cares for. "Domesticated animal" includes, but is not limited to, cats, dogs, and similar species of animals.

b. "Feral animal" shall mean any animal that is in a wild state and was previously domesticated, or is the offspring of a previously domesticated animal. In order for an animal to be feral, it must not be occasionally maintained, harbored, or cared for by any resident or group of residents working in concert.

i. No resident will be liable for a feral animal as defined in this Chapter.

c. “Partially assimilated animal” shall mean any otherwise feral animals, including cats, that are occasionally, habitually, or regularly maintained, harbored, or cared for by a resident or group of residents working in concert.

d. “Animal-in-question” shall be any domesticated or partially assimilated animal against which a complaint is filed, as the case may be.

e. “Maintained” shall mean either:

   i. Paying or receiving any preventative, necessary, or emergency veterinary intervention,
   ii. Using homeopathic remedies,
   iii. Grooming, or
   iv. Any other act that is not necessary to the animal’s survival, but rather that an owner of a domesticated animal might do.

f. “Harbored” shall mean providing shelter for an animal, including either:

   i. Allowing an animal into a house,
   ii. Deliberately allowing the garage to remain open to animals for the purpose of giving them shelter, or
   iii. Deliberately leaving any other building, such as a shed, to remain open to animals for the purpose of giving them shelter,

g. “Care for” shall mean providing food, help, comfort, or any other actions that constitute compassion above and beyond that which one would exhibit toward a wholly feral, unknown animal.

h. “Liable Person” shall mean any person, whether they own a domesticated animal or maintain, harbor, or care for a partially assimilated animal or other animal, or any other person upon whom liability is imposed within this Chapter.

i. “Complainant” shall mean any person who was injured or whose property was damaged in the Town of Camillus by an animal, either partially assimilated or domesticated.

ARTICLE II: LIABILITY AND ITS IMPOSITION

§ 10 Any person within the Town of Camillus who owns, or occasionally maintains, harbors, or cares for an animal shall be liable for that animal’s actions, including but not limited to property damage, personal injury, or nuisance, and more specifically:

a. Urinating on plants, grass, landscape, or on any other structure,

b. Defecating on plants, grass, landscape, or on any structure,

c. Scratching humans or structures, including but not limited to fences, fence posts, sheds, garages, houses, and mailbox posts,

d. Biting humans or other animals,

e. Burrowing,

f. Digging,

g. Killing domesticated animals, or

h. Killing or significantly damaging plants, grasses, or shrubs.

§ 11 Notwithstanding any other provision of law, a person shall be deemed a Liable Person when a domesticated or partially assimilated animal commits any act in violation of this chapter, whether or not the liable person knew or should have known that the animal had a special disposition toward such actions. The animal-in-question's violation of this chapter shall create liability for the Liable Person.

§ 12 The liable person need not have any specific knowledge of an animal's prior property damage, physical injury, or nuisance in order to be liable under this law. Knowledge of the animal's ability to cause such damage, injury, or nuisance is presumed, and ignorance of that fact shall not be a recognized defense to a violation of this Chapter.

§ 13 A Liable Person shall have civil liability for:

a. Any actual property damage suffered for which the animal-in-question proximately caused, either to repair or replace the damaged property, so long as the damages are reasonable.

b. In the event that the damaged property is irreplaceable, the liable person shall be responsible for the fair market value of the property,

c. Any personal injuries and special damages.

ARTICLE III: PRIVATE CAUSE OF ACTION ESTABLISHED

§ 20 A private cause of action for "Animal Liability" is hereby established in the Town of Camillus and is hereby recognized by its courts, under the provisions of Article Three of this Chapter. The liable person shall have strict liability for the animal-in-question's actions.

§ 21 Cases arising under this cause of action shall be heard in the Town of Camillus Court and shall adhere to the Uniform Justice Courts Act.

ARTICLE IV: MISCELLANEOUS PROVISIONS

§ 30 No portion of this Chapter shall be construed as a "leash law" mandating animals to be leashed, either explicitly or implicitly. The sole purpose of this Chapter is to ensure that all residents are allowed to enjoy their property and their domesticated or partially assimilated animals in harmony and without any unreasonable impingement upon each other's rights.

§ 31 No cause of action may be maintained that alleges Animal Liability prior to the effective date of this Chapter.

§ 32 Should any section of this Chapter be deemed contrary to the New York State or Federal Constitution by any court or competent tribunal, with jurisdiction thereof, the other sections of this Chapter shall survive and shall continue to operate in their fullest capacity.

HISTORICAL NOTES:

Chapter created, LL#17-2012