



*New York State Assembly, Sheldon Silver, Speaker
Legislative Commission on State-Local Relations
Assemblymember Tim Gordon, Chair*

Animal Control

Statutory Authority

See generally, Municipal Home Rule Law, § 10(1)(ii)(a)(12)

Counties, Cities, Towns and Villages – Disposition, by local law or ordinance, of stray or unwanted dogs to police department that trains dogs as guards or to an agency training seeing eye dogs. [General Municipal Law § 88]

May provide for spaying and neutering facilities. [Agriculture and Markets Law § 117]

Counties and Villages – Dog control officers and pounds required in villages where licenses issued; officers and pounds authorized but optional in other villages and counties. May contract for such services. [Agriculture and Markets Law §§ 114-115]

Counties – Board of supervisors may appropriate funds and contract for and administer programs for the elimination of rodents and wild animals. [County Law § 224(7)]

Board of supervisors or county legislature may appropriate money for controlling rabies in wildlife. State may reimburse up to 50 percent of cost, not to exceed \$6,000 per fiscal year. [Environmental Conservation Law § 11-0527]

Counties mandated to adopt compulsory anti-rabies vaccination program. [Public Health Law Article 21, Title 4]

Cities, Towns and Villages – Authorized to take or issue permits to take pigeons whenever they are or may become a menace to public health or a public nuisance in any humane manner; provided that no other animal life, persons, or property be endangered. [Environmental Conservation Law § 11-0513(2)]

Cities and Towns – Dog control officers and pounds required. May contract for such services. [Agriculture and Markets Law §§ 114-115; Town Law § 326]

Towns – Regulating and killing of unmuzzled dogs. [Town Law § 130(9)]

Selected Court Cases

Skinner v. Chapman, 2004, 326 F.Supp.2d 431. Temporary taking of plaintiff's dog by dog control officer did not rise to level of a unconstitutional seizure of property or due process violation; seizure was reasonable and consistent with New York State and local law inasmuch as dog was not licensed, had not received a rabies vaccination, and was suspected of being at large and biting a child.

In the Matter of Robert Eberhardt, et al. v. City of Yonkers, 2003, 305 A.D.2d 501, 759 N.Y.S.2d 542, N.Y.S. App. Div.5401. Article 78 proceeding seeking writ of prohibition against enforcement of Yonkers City Code provision defining "vicious animal", which conflicts with the definition contained in state Agriculture and Markets Law, is appropriate legal proceeding when declaratory judgment action would not provide appropriate relief sought by petitioners.

Opinions of the Comptroller and Attorney General

Attorney General Opinion [2005 - 12](#): Agriculture and Markets Law, Art. 9, §§ 106, 107, 108, 119, 121, 124, 125; County Law § 700(1); C.P.L.R. § 401; Criminal Procedure Law §§ 1.20(39), 10.10, 10.30; Penal Law § 10.00, 60.00, 60.27; Town Law §§ 20, 65. The attorney for a town may represent the town in civil proceedings brought pursuant to Agriculture and Markets Law § 121, but may prosecute criminal violations of dog control laws only if duly authorized by the district attorney. The town may seek the court's leave to intervene in a special proceeding brought pursuant to Agriculture and Markets Law § 121. Restitution and reparations to the victim of a dog attack may be ordered.

Attorney General Opinion [2000-17](#): Agriculture and Markets Law, Art. 7, § 114. A town may not contract with an individual for dog control services. A town may appoint a dog control officer or enter into a contract with another municipality, an incorporated humane society or incorporated dog protection association for dog control services.

Attorney General Opinion [96-15](#): Agriculture and Markets Law, Article 7, § 114; Not-For-Profit Corporation Law §§ 201(b), 404(g), 1403(a). The authorization for municipalities to contract for dog control services with an incorporated dog protective association means an association formed under the Not-For-Profit Corporation Law.