Ord. #20 - 2014

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 106, "DOGS AND OTHER ANIMALS"

WHEREAS, the Township recognizes that the impounding of dogs and assessment of their potential danger are serious matters; and

WHEREAS, the Township recognizes that dog owners should be permitted an opportunity to explain the situation and advocate for their dogs; and

WHEREAS, the Township recognizes that the process of evaluation of circumstances is a matter for the municipal court to handle; and

WHEREAS, in the interest of public safety, the Township seeks to clarify the impoundment requirements and procedures following impoundment.

BE IT ORDAINED by the Township Council of the Township of Mount Olive, in the County of Morris, State of New Jersey that Chapter 106 of the Mount Olive Township Code, in Part II, General Legislation, entitled, "Dogs and Other Animals" is amended as follows:

SECTION 1.

§106-11. Disposition of impounded dog; notification of Health Officer and owner.
A. The ACO shall notify the municipal court and the Township Health Officer immediately that he has seized and impounded a dog pursuant to §**106-10** or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. The ACO shall, through a reasonable effort, attempt to determine the identity of the owner of any dog seized and impounded. If its owner cannot be identified within seven days, that dog may be humanely destroyed and all fees paid pursuant to §**106-12B**.

B. The Animal Control Officer shall, within three working days of the determination of the identity of the owner of a dog seized and impounded pursuant to § **106-10**, notify, by certified mail, return receipt requested, the owner concerning the seizure and impoundment and that, if the owner wishes, a hearing pursuant to § **106-10**, will be held to determine if the dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed and all fees paid pursuant to § **106-12B**. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter or does not reply to the

certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed, and all fees paid pursuant to § **106-12B**.

§ 106-11.1. Selection of panel; notification of hearing.

[Removed in its entirety]

§ 106-11.2. Court's findings.
The municipal court shall:
A. Declare the dog vicious if it finds by clear and convincing evidence that the dog:

1. killed a person or caused serious bodily injury as defined in N.J.S.A. 2C:11-1b to a person; or
2. has engaged in dog fighting activities as described in N.J.S.A. 4:22-24 and 4:22-26.

However, a dog shall not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S.A. 2C:11-1b upon a person if the dog was provoked. The Township shall bear the burden of proof to demonstrate that the dog was not provoked.

If the municipal court declares a dog to be vicious and no appeal is made of this ruling pursuant to § **106-11.3C** of this article, the dog shall be destroyed in a humane and expeditious manner and all fees paid pursuant to § **106-12B**, except that no dog may be destroyed during the pendency of an appeal.

B. Declare a dog to be potentially dangerous if it finds that the dog:

1. caused bodily injury as defined in N.J.S.A. 2C:11-1a to a person during an unprovoked attack and poses a serious threat of bodily injury or death to a person; or
2. severely injured or killed another domestic animal and
   a. poses a threat of serious bodily injury or death to a person or
   b. poses a threat of death to another domestic animal; or
3. has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

However, a dog shall not be declared potentially dangerous for causing bodily injury as defined in N.J.S.A. 2C:11-1a to a person if the dog was provoked; or severely injuring or killing a domestic animal if the domestic animal was the aggressor. The Township shall bear the burden of proof to demonstrate that the dog was not provoked.

§ 106-11.3. Appeal of Decision.
The owner of the dog or the Animal Control Officer may appeal any final decision, order or judgment, including any conditions attached thereto, of the municipal court by filing an appeal with the Superior Court, Law Division, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to appeals from courts of limited jurisdiction. The Superior Court shall hear the appeal by conducting a hearing de novo in the manner established by those rules for appeals from the courts of limited jurisdiction.

§ 106-11.4. Expenses chargeable to owner.

A. If a dog is declared vicious or potentially dangerous and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the municipality in which the dog is impounded for the costs and expenses of impounding and destroying the dog, pursuant to § **106-12B** of this article. The owner shall also incur the expense of impounding the dog in a facility other than the municipal pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

B. If the dog has bitten or exposed a person to rabies within 10 days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

§ 106-11.5. Hearings for subsequent acts.

If the municipal court finds that the dog is not vicious or potentially dangerous, the municipal court shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog..

§ 106-11.6. Potentially dangerous dogs.

A. If the municipal court declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance which, in part:
(1) Shall require the owner to comply with the following conditions:
(a) To apply, at his own expense, to the Mount Olive Township Health Department for a special potentially dangerous dog license, registration number and red identification tag issued pursuant to Subsection **C** of this section. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a potentially dangerous dog license, registration number and red identification tag.
(b) To display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosure required pursuant to Subsection **A(1)(c)** of this section.
(c) To immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which enclosure has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the Animal Control Officer and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner.
(2) May require the owner to comply with the following conditions:

(a) To maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the Township to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.
(b) To tether the dog within the enclosure with a tether approved by the ACO and having a minimum tensile strength in excess of that required to fully secure the dog and of a length which prohibits the dog from climbing, jumping or digging out of the confined area.

B. The ACO shall inspect the enclosure and the owner's property at least monthly to determine continuing compliance with Subsection **A(1)(b)** and **(c)** of this section.

C. The Township Health Officer shall:
(1) Issue a potentially dangerous dog registration number and red identification tag along with a potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the Animal Control Officer that he has complied with the court's orders. The last three digits of each potentially dangerous dog registration number issued by the Township will be the three-number code assigned to the Township in the regulations promulgated pursuant to N.J.S.A. 4:19-33. The Animal Control Officer shall verify compliance, in writing, to the Mount Olive Township Health Department.
(2) Publicize a telephone number for reporting violations of this section. This telephone number shall be forwarded to the State Department of Health, and any changes in this number shall be reported immediately to the State Department of Health.
(3) Collect a fee in the amount of $300 for each potentially dangerous dog license and renewal thereof.

D. The owner of a potentially dangerous dog shall:
(1) Comply with the provisions of this section in accordance with a schedule established by the municipal court, but in no case more than 60 days subsequent to the date of determination.
(2) Notify the Township Health Officer, Township Police Department and the ACO if a potentially dangerous dog is at large or has attacked a human being or killed a domestic animal.
(3) Notify the Township Health Officer, Township Police Department and the ACO within 24 hours of the death, sale or donation of a potentially dangerous dog.
(4) Prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous.
(5) Upon the sale or donation of the dog to a person residing in a different municipality, notify the State Health Department and the Township Health Officer, Township Police Department and ACO of that municipality of the transfer of ownership and the name, address and telephone of the new owner.
(6) In addition to any license fee required pursuant to Section 3 of P.L. 1941, c. 151 (N.J.S.A. 4:19-15.3), pay a potentially dangerous dog license fee to the municipality as provided by § **106-11.6C** of this article.

§ 106-12. Redemption of dogs, cats and other animals; detention fees.
A. When any dog has been seized in accordance with the provisions of this article and has been detained for seven days after such notice, when notice can be given as set forth in § **106-11**, or

has been detained for seven days after seizure when notice has been given as set forth in § **106-11**, and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention as hereinafter specified, and if the dog is unlicensed at the time of seizure and the owner or person keeping or harboring said dog has not produced a license and registration tag for said dog, the ACO may cause the dog to be destroyed in a manner causing as little pain as possible.

B. The following charges shall be paid to the Township of Mount Olive as expenses incurred by reasons of detention in accordance with the provisions of this article:
(1) Pickup of any dog or cat:
(a) First offense: $50.
(b) Second offense: $75.
(c) Third/subsequent offense: $100-$500.
(2) Maintenance, per day: $20.
(3) Euthanasia:
(a) Dog: $45.
(b) Cat: $45.
(4) Disposal/cremation:
(a) Dog: $45.
(b) Cat: $45.
(5) Quarantine:
(a) Dog: $40.
(b) Cat: $30.

C. The charges specified herein shall be paid to the Mount Olive Township Health Department, and a receipt shall be provided to the person paying such charges, which receipt will be the authority for the Animal Control Officer to release the dog to the owner or person claiming such dog. No dog so impounded shall be sold, given, released or turned over to any agency, organization or corporation, whether governmental or private, for experimentation or other like purposes.

§ 106-14. Violations and penalties.
A. Unless otherwise provided by statute, any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding $50 for the first offense, a fine not exceeding $75 for the second offense and a fine not less than $100, nor more than $500, for the third and each subsequent offense, within any eighteen-month period.

B. The owner of a potentially dangerous dog who is found by clear and convincing evidence to have violated this article, or any rule or regulation adopted pursuant thereto, or to have failed to comply with a court's order shall be subject to a fine of $100 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction to enforce this section. An Animal Control Officer is authorized to seize and impound any potentially dangerous dog whose owner fails to comply with the provisions of this article, or any rule or regulation adopted pursuant thereto, or a court's order. The municipal court may order that the dog so seized and impounded be destroyed in an expeditious and humane manner.

[Added 7-10-1990 by Ord. No. 28-90]

SECTION 2. All ordinances of the Township of Mount Olive, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This ordinance may be renumbered for purposes of codification.

TOWNSHIP OF MOUNT OLIVE

_____

John Mania, Council President

ATTEST:

_____

Lisa Lashway, Township Clerk

TOWNSHIP OF MOUNT OLIVE
BOARD OF HEALTH

RESOLUTION NO. BOH 2014-08

A RESOLUTION OF THE TOWNSHIP OF MOUNT OLIVE BOARD OF HEALTH SUPPORTING THE ADOPTON OF ORDINANCE NO. 20-2014 OF THE TOWNSHIP COUNCIL OF MOUNT OLIVE AMENDING CHAPTER 106, "DOGS AND OTHER ANIMALS"

WHEREAS, *N.J.S.A.* 26:3-1, *et seq.*, provides for the establishment of local boards of health as an autonomous entity, separate and apart from the governing body of the municipality; and

WHEREAS, the Township Council of the Township of Mount Olive, County of Morris, and State of New Jersey, are desirous of adopting Ordinance No. 20-2014 amending Chapter 106 of the Mount Olive Township Code, in Part II, General Legislation, entitled "Dogs and Other Animals", for the purpose of conforming to New Jersey's State statutes; and

WHEREAS, the Board of Health of the Township of Mount Olive supports the passage of Ordinance No. 20-2014.

NOW, THEREFORE, BE IT RESOLVED by the Board of Health of the Township of Mount Olive, in the County of Morris and State of New Jersey, that the Board supports the Mayor and Council of Mount Olive Township's adoption of

Ordinance No. 20-2014, amending Chapter 106 of the Mount Olive Township Code, in Part II, General Legislation, entitled "Dogs and Other Animals", for the purpose of conforming to New Jersey's State statutes.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the legal newspaper of the Board of Health.

ATTEST:

BOARD OF HEALTH
TOWNSHIP OF MOUNT OLIVE

By _____
STEVEN ABRAMS
VICE CHAIRMAN

_____
CLAUDIA TOMASELLO
BOARD SECRETARY

By _____
JOSEPH NICASTRO
BOARD CHAIRMAN

Member	AYE	NAY	N.V.	A.B
ABRAMS				
MICCIO				
ROSS				

Member	AYE	NAY	N.V.	A.B
COOPER				
KANA				

X - Indicates Vote **A.B. – Absent** **N.V - Not Voting (Abstained or Excused)**

Approved as to:
Factual Contents _____ **Appropriation** _____ **Form and Legality** _____
Department Head Chief Financial Officer
Board Counsel

Tabled _____ **Removed from Table** _____

Secretary's Certification _____ **Adopted** _____

Entered on Minutes, Page

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