

DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH

NOTICE OF ADOPTION OF AMENDMENTS TO SECTIONS 161.03, 161.04 AND 161.05
OF THE NEW YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter, a Notice of Intention to Amend Sections 161.03, 161.04 and 161.05 of the New York City Health Code and Notice of Public Hearing was printed in The City Record on June 19, 2003. A public hearing was held on July 24, 2003, at which no testimony was presented. One written comment was received, and no revisions have been made. The Board of Health at its December 10, 2003 meeting adopted the following resolution.

STATUTORY AUTHORITY

This amendment to the New York City Health Code is promulgated pursuant to Sections 558 and 1043 of the New York City Charter (“Charter”). Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department’s authority extends. Section 1043 grants the Department of Health and Mental Hygiene rulemaking authority.

STATEMENT OF BASIS AND PURPOSE

The New York City Department of Health and Mental Hygiene (the “Department”) is authorized and required by law to promote and protect the health and safety of New York City residents and visitors by ensuring an environment free from animal-borne diseases and hazards, as well as those caused by other vectors. Article 161 contains various provisions related to issues of public health concern in ownership and management of animals in the City of New York.

The Department enforces provisions of the New York City Health Code (the “Health Code”), the Administrative Code of the City of New York and the New York State Sanitary Code related to investigating reports of animal bites and rabies; managing wild, vicious and/or dangerous animals; licensing and regulating working horses and dogs, and companion dogs; and issuing animal exhibition permits. The Department inspects and issues permits for facilities where animals are sold, adopted, held, groomed, trained, boarded and sheltered. The Department monitors the City’s contract for animal care and control services, investigates animal nuisance complaints and cooperates with all government and voluntary agencies involved in the care and control of animals.

New York State and New York City animal control laws are intended to safeguard the health and safety of the public. In addition to having their dogs actively vaccinated against the disease of rabies, responsible dog owners must obtain a license (New York City Dog License Law, Ch. 115 of the Laws of 1894, as amended); attach a dog license tag to the dog’s collar when the animal is in a public place (see, Health Code §161.04); hold the dog on a leash no longer than six feet when the dog is in a public place (see, Health Code §161.05); and remove their dog’s feces from any

public areas (see, Health Code §161.03 and New York Public Health Law §1310).

Licensing companion dogs is increasingly seen as an important indicator of responsible dog ownership, reducing the numbers of strays, biting incidents and homeless, unwanted animal overpopulation. It enables owners of stray dogs to be more easily identified so that lost dogs may be returned to their owners. It makes it possible for the Department to identify and control biting and dangerous dogs, and to control rabies. Information about ownership and rabies vaccination status of a biting dog may aid a victim's medical practitioner in the decision making process regarding the possible need to initiate rabies prophylaxis.

After a pack of dogs inflicted serious bite wounds on two people in the Rockaways in December, 2001, the Department joined with various government agencies and other organizations enforcing dog control and public safety laws, including the New York City Police Department (NYPD), Department of Parks and Recreation (DPR), Department of Sanitation (DOS), Housing Authority, Department of Housing Preservation and Development, Center for Animal Care and Control (CACC) and the American Society for the Prevention of Cruelty to Animals (ASPCA) to form a Dangerous Dog Task Force. The aim of the Task Force is to increase public safety by encouraging responsible dog ownership through the following activities: (a) animal information and ownership sessions, (b) spay/neuter and rabies vaccination clinics, (c) training for various agency units which enforce animal laws and regulations; (d) closing gaps and clarifying applicable laws, and (e) securing vacant properties that provide harborage for stray dogs.

Pursuant to current law, CACC employees who are special patrolmen and NYPD officers may issue notices of violation to owners whose dogs create a nuisance, have no dog license tags attached to their collars, or are unrestrained or improperly restrained. DOS, which is authorized to enforce the State "pooper scooper" law (Public Health Law §1310), and DPR, which currently enforces DPR's animal control regulations in park lands within DPR's jurisdiction, have expressed interest in obtaining authority for their enforcement employees to enforce certain animal control provisions of Article 161 of the Health Code which contribute to public health and safety. Accordingly, the Board of Health has amended applicable provisions of Article 161 of the Health Code to enable DPR and DOS enforcement agents to issue notices of violation of Health Code §161.03 ("Control of dogs and other animals to prevent nuisance"), §161.04 ("Dog Licenses") and §161.05 ("Dogs to be restrained") resulting in an expected improvement in the public's compliance with these provisions.

Except for a letter from the Commissioner of DOS in support of the proposal, there were no written or oral comments submitted in response to the publication of the proposal in The City Record or at the public hearing.

The proposal is as follows:

Note - matter in [brackets] is deleted.

matter underlined is new

RESOLVED, that Section 161.03 of the New York City Health Code, as adopted in nineteen hundred fifty-nine, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§161.03 Control of dogs and other animals to prevent nuisance.

(a) A person who owns, possesses or controls a dog, cat or other animal shall not permit the animal to commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway or roof of any public or private premises used in common by the public, or on a fence, wall or stairway of a building abutting on a public place.

(b) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Departments of Sanitation and Parks and Recreation, or successor agencies.

Notes:

Section 161.03 was amended by resolution adopted on December 10, 2003, adding a new subsection (b) to authorize its enforcement by duly authorized employees and agents of the Department and the Departments of Sanitation and Parks and Recreation.

RESOLVED, that Section 161.04 of the New York City Health Code, as amended by resolution adopted on the fourteenth of December, nineteen hundred and ninety-eight, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§161.04 Dog Licenses.

(a) A dog license obtained in accordance with Chapter 115 of the New York State Laws of 1894, as amended, shall be issued by the Department.

(b) Every person who owns, possesses or controls a dog shall not permit it to be in any public place,

or in any open or unfenced area abutting on a public place, unless the dog has a collar about its neck with a currently valid metal tag attached thereto bearing the number of the license obtained for such dog in accordance with Chapter 115 of the Laws of 1894 of the State of New York, as amended, or §§109 and 112 of the Agriculture and Markets Law.

(c) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Departments of Sanitation and Parks and Recreation, or successor agencies.

Notes:

Section 161.04 was further amended by resolution adopted on December 10, 2003, adding a new subsection (c) to authorize its enforcement by duly authorized agents and employees of the Department and the Departments of Sanitation and Parks and Recreation.

RESOLVED, that Section 161.05 of the New York City Health Code, as adopted in nineteen hundred and fifty-nine, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§161.05 Dogs to be restrained.

(a) A person who owns, possesses or controls a dog shall not permit it to be in any public place or in any open or unfenced area abutting on a public place unless the dog is effectively restrained by a leash or chain not more than six feet long.

(b) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Departments of Sanitation and Parks and Recreation, or successor agencies.

Notes:

Section 161.05 was amended by resolution adopted on December 10, 2003, adding a new subsection (b) to authorize its enforcement by duly authorized agents and employees of the Department and the Departments of Sanitation and Parks and Recreation.

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