

TOWN OF CLIFTON PARK
COUNTY OF SARATOGA
STATE OF NEW YORK

NOTICE OF PUBLIC HEARING REGARDING
PROPOSED AMENDMENTS TO CHAPTERS 152, 153, AND 92 OF THE CLIFTON PARK
TOWN CODE

Please take notice that the Town Board of the Town of Clifton Park will conduct a public hearing on August 17, 2020 at 7:05 p.m. in the Wood Memorial Meeting Room in the Town Office Building, located at One Town Hall Plaza, Town of Clifton Park, County of Saratoga, State of New York to consider a proposed Local Law amending certain provisions of the Town code regarding the issuance of citations for violations of prohibitions under the Park and Dog ordinances of Clifton Park. The proposal would classify monetary penalties for violations of the relevant code sections as civil penalties, eliminate the (remote) possibility of the imposition of jail time for such offenses, and to provide for plea-by-mail, or by electronic means, in an effort to reduce the necessity for personal appearances in night court to answer citations written under the Town Code in appropriate instances.

Copies of the proposed local law are posted at <https://cliftonpark.org/government/legal-notices.html> , and are available for review in the Town Clerk's office during normal business hours.

Teresa Brobston Town Clerk

§ 92-8 Prohibitions.

Notwithstanding any other provision of local law, it shall be unlawful for any owner of any dog, or person responsible for such dog, to permit or allow such dog, in the Town of Clifton Park, to:

- A. Be at large.
- B. Engage in habitual loud howling or barking so as to habitually annoy any person. Barking at an intrusion or a disturbance shall not constitute a violation of this article. For purposes of this Subsection **B**, “habitual” shall be defined as occurring continuously for a period of 15 minutes or longer.
- C. Cause damage or destruction to property or commit a nuisance by habitually defecating or urinating or scavenging through refuse upon the premises of a person other than the owner of such dog, unless the owner of said premises has given permission therefor.
- D. Commit an overt act which causes a person who is peaceably conducting himself in any place where he may lawfully be to be placed in reasonable apprehension of bodily harm, together with apparent ability in a dog to inflict such harm.

§ 92-14 Appearance ticket.

- A. Any animal control officer, security officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Clifton Park observing a violation of this article in his presence or receiving a complaint pursuant to § **92-13** of this article, shall issue and serve an appearance ticket for such violation.
- B. Appearance tickets issued under this chapter may be resolved by written plea agreement lodged with the Court, subject to judicial approval, for individuals represented and unrepresented by counsel. Electronic signatures, scanned or photocopied signatures on plea agreement forms shall be presumptively reliable.

§ 92-15 Penalties for offenses.

Any person convicted of a violation of any of the provisions of Article **II** or **III** of this chapter shall be guilty of a violation and shall be subject to the following:

- A. For a first offense, a [fine] civil penalty not to exceed \$100.;;[or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;]
- B. For a second offense committed within a period of one year, a [fine] civil penalty not less than \$100 nor more than \$250.;;[or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment];

- C. For a third or subsequent offense committed within a period of one year, a [fine] civil penalty not less than \$200 nor more than \$500.; [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment.]

- D. Notwithstanding any other penalty imposed by a Justice of the Town Court under this section, a dog owner or responsible person shall be prohibited from being present in either the Mary Jane Row Dog Park or the Kinns Road Park with any unleashed dog, for a period of one year, after being convicted of [an offense] a violation under this chapter three or more times, as a result of three or more transactions within a consecutive twelve-month period. For purposes of this Subsection **D**, a "transaction" is defined as an event during which one or more appearance tickets are issued by an authorized Town enforcement officer.

§ 152-6 Prohibited acts.

It shall be unlawful and constitute an offense for any person to:

- A. Utilize or make use of any preserve within the Town except during the hours set forth in this article.
- B. Use or utilize any preserve within the Town for any act or use which is prohibited by this article.
- C. Vandalize, spray paint, break, or damage any property, fixture, building, facility, improvement or structure, or any trees, shrubbery, landscaping materials, and the like in any nature preserve within the Town.
- D. Operate any motor vehicle of any sort on any field, court, park or recreational facility other than for official purposes and in designated areas. This shall include motor vehicles, all-terrain-motorized vehicles, snowmobiles, motorized-trail bikes, motorcycles, or any other motor-driven craft.
- E. Except for lawful hunting and fishing as permitted herein, it shall be unlawful and a violation for any person to harass or harm wildlife, or to permit his or her dog or other domestic pet to do so.
- F. Use or ignite fireworks of any kind, including sparkling devices as defined in Subparagraph (vi) of Subdivision (a) of Paragraph 1 of § 270.00 of the New York State Penal Law, as referenced in § 156-h of the New York State Executive Law. **[Added 8-17-2015 by L.L. No. 9-2015]**

§ 152-7 Penalties for offenses.

Any person found to have violated any of the provisions of this article shall be guilty of a violation and shall be subject to the following:

- A. For a first offense, a [fine] civil penalty not to exceed \$250, in addition to restitution for damage to preserve property.,[or a term of imprisonment not to exceed 15 days, or any combination of fine, imprisonment and restitution.]
- B. For a second offense committed within a period of 18 months, a [fine] civil penalty not to exceed \$1,000, in addition to restitution for any damage to preserve property.,[or a term of imprisonment not to exceed 15 days, or any combination of fine and imprisonment;]

§ 152-8 Town security officers.

The town security officers are herein and hereby authorized to provide for compliance with this chapter and hereby authorized to issue citations, tickets, information and complaints and to participate in the prosecution of any offenses found in this article.

152-9 **Written Plea Agreements**

Appearance tickets issued under this chapter may be resolved by written plea agreement lodged with the Court, subject to judicial approval, for individuals represented and unrepresented by counsel. Electronic signatures, scanned or photocopied signatures on plea agreement forms shall be presumptively reliable.

Article I
Parks, Park Areas and Park Districts

§ 153-1 Findings and determinations.

It is hereby the finding and determination of the Town Board that use of parks and park areas within the Town of Clifton Park beyond established times or in violation of the following prohibitions constitutes and creates disturbance for homeowners and others residing within the vicinity of town parks and park areas.

§ 153-2 Park hours.

All parks and park areas within the Town of Clifton Park, and all areas on the Clifton Common, shall be open for public use from the hours of 5:30 a.m. until 10:00 p.m. or as otherwise posted. This limitation shall apply to all exterior areas and shall not be applicable to activities inside any buildings within any of the aforesaid areas.

§ 153-3 Collins Park.

All dogs at Collins Park shall be on a leash and kept under leash control.

§ 153-4 Prohibited acts.

It shall be unlawful and constitute an offense for any person to:

- A. Utilize or make use of any park within the Town except during the hours set forth at § **153-2** hereinabove.
- B. Use or utilize any park within the Town for any act or use which is prohibited by this article.
- C. Vandalize, spray paint, break, or damage, any property, fixture, building, facility, improvement or structure, or any trees, shrubbery, landscaping materials, and the like in any park or park area within the Town.
- D. Operate any motor vehicle of any sort on any field, court, park or recreational facility other than for official purposes and in designated areas. This shall include motor vehicles, all-terrain motorized vehicles, snowmobiles, trail bikes, motorcycles, or any other motor-driven craft.
- E. Use or ignite fireworks of any kind, including sparkling devices as defined in Subparagraph (vi) of Subdivision (a) of Paragraph 1 of § 270.00 of the New York State Penal Law, as referenced in § 156-h of the New York State Executive Law. [**Added 8-17-2015 by L.L. No. 9-2015**]

§ 153-5 Parking limited to park use.

It shall be unlawful and constitute [an] a [offense] violation under this article for any person to park any motor vehicle in a town park or public park within a park district at a time when the

operator of the motor vehicle is not utilizing the park or park facilities for their lawful purpose(s).

Article II Clifton Common

§ 153-6 **Determination.**

The Town of Clifton Park hereby determines that substantial moneys have been invested by the Town in the Clifton Commons, and substantial time and effort on the part of volunteers and volunteer organizations have been and continue to be provided to develop, maintain and continue the Clifton Common as a special recreational and park area for town residents. Certain activities if permitted on the Clifton Common would create risks to personal safety or property or problems with respect to the maintenance of the Clifton Common and involve uses never intended for this area of the town.

§ 153-7 **Activities specifically prohibited on Clifton Common.**

Golfing on the Clifton Common is hereby prohibited.

§ 153-8 **Dogs.**

All dogs upon the Clifton Common must be kept upon a leash and under leash control.

§ 153-9 **Penalties for offenses.**

- A. Any person found to have violated any of the provisions of § **153-3** and § **153-8** of this chapter shall be guilty of a violation and shall be [penalized] subject to civil penalties according to the provisions of Chapter **92**, § **92-13**, of this Code.

- B. Any person found to have violated any of the remaining provisions of this Chapter **153** upon the Clifton Common shall be guilty of a violation and shall be subject to a [fine] civil penalty of up to \$250 for the first offense, and up to \$1,000 for every subsequent offense committed within 18 months, [or, in either case, imprisonment for a term not to exceed 15 days, or both such fine and imprisonment,] in addition to restitution for any damage to Park property.

Article III Clifton Park Action Park

§ 153-10 **Determinations.**

The Town Board recognizes the popularity of skating and skateboarding as a means of active recreation for area residents and has established the Clifton Park Action Park as a members-only skate park for skateboarding and inline skating.

§ 153-11 **Authority to establish membership fees.**

The Director of Parks and Recreation shall establish annual membership fees for residents and for nonresidents and enter into agreements with area municipalities for reasonable membership fees for area residents as may be desirable for the maintenance and operation of the park, subject

to approval by the Town Board.

§ 153-12 Rules and regulations; infractions; appeals.

- A. Rules and regulations for the Clifton Park Action Park shall be established by the Director of Parks and Recreation, subject to approval by the Town Board, and shall be posted at the park, are attached hereto[1] and are available on the Town's website.
- B. Infractions or violations of Action Park rules and regulations established by the Director of Parks and Recreation as approved by the Board may result in a suspension or revocation of membership privileges, in addition to any other penalty as may be set forth in this article. Such suspension, revocation or limitation shall be in the discretion of the Assistant Director of Parks and Recreation ("Assistant Director") or his/her designee, subject to review upon appeal by the Director of Parks and Recreation. Appeal from such determination shall be in writing to the Director of the Department of Parks and Recreation within 30 days of the effective date of such determination and shall be heard at the Town Board meeting next following receipt of the appeal. The Director shall affirm, reverse, or modify the determination of the Assistant Director within one week of such hearing. Nothing herein shall prevent the Town Board or the Director from granting relief acceptable to the appellant prior to, or in the absence of, such written appeal or hearing.

§ 153-13 Prohibited acts.

- A. It shall be unlawful and shall constitute a trespass for any person to skate, use, or otherwise be within the park when the Action Park is closed.
- B. It shall be unlawful and shall constitute a trespass for any person to skate, use, or otherwise to be within the park without a current membership ID card or to assist another to be within the park without such membership.
- C. Dogs are prohibited within the Action Park.

§ 153-14 Penalties for offenses.

Any person found guilty of § **153-13** of this article shall be guilty of [an offense] a violation and shall be subject to the following:

- A. For a first offense: a [fine] civil penalty not to exceed \$250 [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;]
- B. For every subsequent offense committed within a period of 18 months: a [fine] civil penalty not to exceed \$1,000 [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment.]

Swimming Pools

§ 153-15 Clifton Park Town pools.

The Town Board recognizes the popularity of swimming and pool leisure activities as a means of active recreation for area residents. The Town of Clifton Park purchased and manages the community pools and clubhouses located on Barney Road and Locust Lane, the pool clubhouse on Burning Bush Boulevard and, in conjunction with the Longkill Park District, Country Knolls Pool located on Burning Bush Boulevard. The three Town pools have been designated as "members only."

§ 153-16 Authority to establish membership fees.

The Director of Parks and Recreation shall establish annual membership fees for residents and for nonresidents, subject to approval by the Town Board.

§ 153-17 Rules and regulations.

Rules and regulations for the three town pools and clubhouses shall be established by the Director of Parks and Recreation, subject to approval by the Town Board, and shall be posted at each pool, are attached hereto^[2] and are available on the Town's website.

§ 153-18 Suspension or revocation of membership privileges; appeals.

- A. Infractions or violations of the three town pools and clubhouses' rules and regulations established by the Director of Parks and Recreation as approved by the Board may result in a suspension or revocation of membership privileges.

- B. Such suspension, revocation or limitation shall be in the discretion of the Assistant Director of Parks and Recreation ("Assistant Director") or his/her designee, subject to review, upon appeal, by the Director of Parks and Recreation. Appeal from such determination shall be in writing to the Director of the Department of Parks and Recreation within 30 days of the effective date of such determination and shall be heard at the Town Board meeting next following receipt of the appeal. The Director shall affirm, reverse, or modify the determination of the Assistant Director within one week of such hearing. Nothing herein shall prevent the Town Board or the Director from granting relief acceptable to the appellant prior to, or in the absence of, such written appeal or hearing.

§ 153-19 Prohibited acts.

- A. It shall be unlawful and shall constitute a trespass for any person to use or otherwise be within pool and clubhouse designated areas when the pools and clubhouses are closed.

- B. It shall be unlawful and shall constitute a trespass for any person to use or otherwise to be within the pool or clubhouse area without a current membership unless he or she can be identified as a paid guest of a current member.

- C. Dogs are prohibited within pool and clubhouse designated areas.

§ 153-20 Penalties for offenses.

Any person found guilty of § **153-19** of this article shall be guilty of an offense and shall be subject to the following:

- A. For a first offense: a [fine] civil penalty not to exceed \$250 or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;
- B. For a second offense committed within a period of 18 months: a [fine] civil penalty not to exceed \$500 [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;]
- C. For a third and any subsequent offense committed within a period of 18 months: a [fine] civil penalty not to exceed \$750 [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;]
- D. For a fourth and any subsequent offense committed within a period of 18 months: a [fine] civil penalty not to exceed \$1,000 or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment.

Article V
Town Trails

§ 153-21 Motorized vehicles restricted.

Motorized vehicles or crafts of any type are prohibited and shall not be parked or operated on trails within the Town. This shall include, but not be limited to, motor vehicles, all-terrain motorized vehicles, snowmobiles, motorized trail bikes, motorcycles or any other motor-driven vehicle or craft. This provision shall not apply to emergency vehicles or vehicles operated by police, environmental officers, Town officials or others designated by them on official business, or motorized wheelchairs or other motorized vehicles designed to enable an individual with a disability.

§ 153-22 Penalties for offenses.

Any person found to have violated any provision of this Article **V** shall be guilty of a violation and, [upon conviction] thereof, shall be subject to a [fine] civil penalty not to exceed \$500 [or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment.]

§ 153-23 Town security officers.

The Town Security Officers are hereby authorized to provide for compliance with this Chapter **153** and are hereby authorized to issue citations, tickets, [information] and complaints and to participate in the prosecution of any offenses charged under this chapter.

153-24 Written Plea Agreements

Appearance tickets issued under this chapter may be resolved by written plea agreement lodged

with the Court, subject to judicial approval, for individuals represented and unrepresented by counsel. Electronic signatures, scanned or photocopied signatures on plea agreement forms shall be presumptively reliable.