

Town of Penfield, Monroe County

LOCAL LAW #1 of the year 2010

WHEREAS, effective January 1, 2011, the State of New York will relinquish the responsibility of dog licensing function to local municipalities and will eliminate the Animal Population Control Fund; and

WHEREAS, local municipalities will now be required to adopt legislation relating to this issue; and

WHEREAS, the Town's current laws relating to dogs need to be updated in conformance with the change in the statute; NOW THEREFORE, BE IT enacted by the Penfield Town Board, as follows:

**Dog Licensing and Animal Control**

**§ Section 1. Title.**

This article shall be known and may be cited as the "Dog Licensing and Animal Control Law" of the Town of Penfield, New York.

**§ Section 2. Purposes.**

The purpose of this law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of people, personal property, domestic animals and deer from dog attack and damage, and to preserve the public health, safety and welfare by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of citizens of the Town.

**§ Section 3. Authority.**

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York, as amended by Part T of Chapter 59 of the Laws of 2010, and as may be subsequently amended and supplemented.

**§ Section 4. Definitions and word usage.**

All words, terms or phrases used herein shall have the meanings indicated below or as defined in the Agriculture and Markets Law. If no specific definition is set forth, all words shall have their usual and customary meaning in the English language. Words used in the present tense include the future and the plural includes the singular. The word "shall" is intended to be mandatory.

**ANIMAL/DOG CONTROL OFFICER** – Any individual appointed by the Town Board to assist in the enforcement of this law, and for the purposes of this law, such officer shall be deemed a peace officer.

**CLERK** – The Town Clerk, or Deputy Town Clerk, of the Town of Penfield or his or her agent.

**DETECTION DOG** – Any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

**DOG** – Any member of the species *canis familiaris*.

**GUIDE DOG** – Any dog that is trained to aid a person who is blind and that is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the State of New York during the period such dog is being trained or bred.

**HARBOR** – To provide food or shelter to any dog.

**HEARING DOG** – Any dog that is trained to aid a person with a hearing impairment and that is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such training.

**IDENTIFICATION TAG** – A tag issued by the Clerk that sets forth an identification number, as required by the provisions of this law.

**OWNER** – Any person who harbors or keeps any dog.

**PERSON WITH DISABILITY** – Any person with a disability as that term is defined in Subdivision 22 of § 292 of the New York State Executive Law.

**POLICE WORK DOG** – Any dog owned or harbored by any municipal police department or any state or federal law enforcement agency, which dog has been trained to aid law enforcement officers and is actually being used for police work purposes.

**SENIOR RESIDENT** – Any resident of the Town age 65 or older.

**SERVICE DOG** – Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.

THERAPY DOG – Any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and that is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such purpose.

TOWN – The Town of Penfield, including incorporated areas.

WAR DOG – Any dog which has been honorably discharged from the United States armed services.

WORKING SEARCH DOG – Any dog that is trained to aid in the search for missing persons and that is actually used for such purposes; provided, however, that such services provided by said dog shall be performed without charge or fee.

**§ Section 5. Dog licensing requirements, procedures and fees.**

A. License application.

- (1) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large or that is residing in a pound or shelter maintained by or under contract or agreement with the state or any county, city, town or village, any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective society.
- (2) Application for dog license shall be made to the Clerk and shall be accompanied by the appropriate license fee.
- (3) The application shall state the sex, actual or approximate year of birth, breed, color(s), and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town of residence of owner, and such other information as deemed necessary by the Clerk.
- (4) In the case of a spayed or neutered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided that such certificate shall not be required if the same is already on file with the Clerk.

- (5) The application shall be accompanied by a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.
- B. License fees. The fee for a dog license shall be as follows:
- (1) Unsprayed/unneutered dog \$20.00 per year (includes state-mandated \$3.00 surcharge), or as may be changed by the Penfield Town Board by Resolution.
  - (2) Spayed/neutered dog \$10.00 per year (includes state-mandated \$1.00 surcharge), or as may be changed by the Penfield Town Board by Resolution.
  - (3) Upon submission of proper documentation, there shall be no fee charged for the license issued for any detection dog, guide dog, hearing dog, police work dog, service dog, therapy dog, war dog or working search dog.
  - (4) A fee of \$5.00 for spayed/neutered dog or a fee of \$15.00 for unsprayed/unneutered dog shall be charged for a dog owned by a senior resident.
  - (5) In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay an additional fee of \$5.00. Such additional fee shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event that the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the Town for any other lawful purpose. Such additional fee may be changed by the Penfield Town Board by Resolution.
- C. Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.
- D. The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.
- E. A license shall be renewed after a period of one year beginning with the first day of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.

- F. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.
- G. No dog can be adopted out of the Town's animal shelter without first obtaining a license from the Clerk.
- H. Purebred licenses. The Town shall not issue purebred or kennel licenses. All dogs shall be licensed individually in accordance with the fees stated above.
- I. Any dog harbored within the Town that is owned by a resident of New York City or licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of 30 days be exempt from the licensing and identification provisions of article.

**§ Section 6. Identification of dogs.**

- A. Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent municipal identification number. Such identification number shall be carried by the dog on an identification tag that shall be affixed to a collar on the dog at all times. A dog participating in a dog show shall be exempt from the identification requirement during such participation.
- B. The identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
- C. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee of \$3.00 or as may be changed by the Penfield Town Board by Resolution.
- D. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.
- E. The identification tag shall be imprinted with the words "Penfield, NY", a unique identification number, and the telephone number of the Clerk's office.

**§ Section 7. Change of ownership, lost or stolen dogs.**

In accordance with the provisions of § 112 of the Agriculture and Markets Law, as may be amended or renumbered:

- A. In the event of a change in ownership of any dog that has been assigned an identification number or in the address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Clerk.
- B. If any dog that has been assigned a municipal identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Clerk.
- C. In the case of a dog's death, the owner of record shall so notify the Clerk, either prior to the renewal of license or upon the time of such renewal.

**§ Section 8. Seizure, confinement, and impoundment.**

In accordance with § 117 of the Agriculture and Markets Law, as may be amended or renumbered:

- A. The Animal/Dog Control Officer is hereby authorized to seize or direct the confinement of:
  - (1) Any dog which is not licensed, whether on or off the owner's premises.
  - (2) Any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is dangerous to persons.
  - (3) Any dog which poses an immediate threat to the public safety or which attacks a human being, a companion dog, a farm animal or a domestic animal as said terms are defined in the New York State Agriculture and Markets Law.
  - (4) Any dog in violation of § Section 9A through K of this article.
- B. The Animal/Dog Control Officer, when acting pursuant to his or her special duties, shall make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the municipal identification number of the such dog (if any), the location where seized, the reason for the seizure and the owner's name and address, if known. The owners will pay the following seizure fees:

- (1) For the first impoundment: Thirty dollars (\$30.00)
  - (2) For the second impoundment: Fifty dollars (\$50.00)
  - (3) For the third impoundment: Seventy five dollars (\$75.00)
  - (4) For the fourth impoundment: One hundred and fifty dollars (\$150.00)
  - (5) For the fifth impoundment and every impoundment thereafter: Two hundred dollars (\$200.00)
- C. Each dog seized in accordance with the provisions of this article shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.
- D. Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this article and further provided that the owner pays the following impoundment fees or as may be changed by the Penfield Town Board by Resolution:
- (1) Not less than \$20.00 for the first impoundment of any dog owned by that person.
  - (2) Not less than \$30.00 for the first 24 hours or part thereof and \$10.00 for each additional 24 hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person.
  - (3) Not less than \$50.00 for the first 24 hours or part thereof and \$10.00 for each additional 24 hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.
  - (4) If, upon redemption, any dog received a rabies vaccination, that charge for such vaccination shall be added to impoundment fees.
- E. If, at the end of the appropriate redemption period, said dog has not been redeemed by its owner, the owner shall forfeit all title to the dog and it shall be available for adoption or be released to an authorized humane society or shelter for adoption or disposal by appropriate methods of euthanasia.
- F. Prior to releasing a dog to its owner the Animal Control Officer will inform the owner of any seizure fees, medical fees and boarding fees associated to confinement to be paid at the Town Clerk's office at which time such dog may be released to owner.

**§ Section 9. Prohibited activities by dogs.**

- A. It shall be unlawful for any person who owns, has the care, custody or control of any dog(s) in the Town to permit or allow such dog (s) to be at large or unleashed in said town, except as permitted by this law (Hunting is limited to certain parts of the town). Further in this regard:
- 1) All dog(s) in the Town of Penfield are hereby required to be equipped with a collar or harness to which is attached a leash or retractable lead of not more than 15 feet in length, both collar, harness, leash and lead must be of sufficient strength to restrain dog(s) when off the owner's premises and must be held by a person having the ability to control and restrain the dog(s).
  - 2) Dog(s) may be unleashed on owner's premises or when on the private premises of another with the knowledge, consent and approval of such person or when hunting in the company of and under control of a hunter or hunters upon the property of another with knowledge, consent and approval of the property owner. Dog(s) used in Law Enforcement, Rescue or Tracking when working or training may be unleashed.
- B. Engage in habitual and loud howling, barking, crying or whining or conduct as to unreasonably and habitually disturb the comfort of any person other than the owner of such dog.
- C. Uproot, dig, deface or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner of such property.
- D. Chase, jump upon or at, or otherwise harass any person in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm.
- E. Habitually chase, run alongside of or bark at motor vehicles, moving vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property.
- F. Create a nuisance by defecating, urinating or digging on public property or on private property without the consent or approval of the owner of such property. The dog owner or harbinger shall clean up any waste deposited by the dog.
- G. If a female dog, when in heat, be off the owner's premises.

- H. Enter public buildings, restaurants, stores or cemeteries, except for guide dogs.

**§ Section 10. Penalties for offenses.**

Any person violating any provision of this law or the Agriculture and Markets Law, including the failure to license a dog, the failure to have a dog properly identified or to knowingly affix to any dog any false or improper identification tag or special identification tag for identifying guide, service or hearing dogs, shall be subject to a fine, which shall not be less than \$25.00 or more than \$250.00. except that:

- A. Where the person was found to have violated this law within the preceding five years, the fine shall not be less than \$50.00 or more than \$500.00; and
- B. Where the person was found to have committed two or more violations of this article within the preceding five years, the fine shall not be less than \$100.00 or more than \$1,000.00.

**§ Section 11. Severability.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ Section 12. Effective date.**

This local law shall take effect January 1, 2011, after filing with the Secretary of State in Albany and Chapter 9 of the Code of the Town of Penfield is hereby repealed upon this Local Law taking effect.

Hearing: 12/1/10

Adopted: 12/15/10

Effective: 1/1/11