

LOCAL LAW NO. 2 OF 2010

LICENSING AND SETTING LICENSING FEES OF DOGS

SECTION 1.0

LEGISLATIVE AUTHORITY

1.01. STATUTORY AUTHORITY

This local law is enacted pursuant to the authority vested in the Town Board of the Town of Lincklaen by Article 7 of the Agriculture and Markets Law, as amended by Part T of Chapter 59 of the Laws of 2010, Town Law Section 176 and the Municipal Home Rule Law.

1.02. PURPOSE AND INTENT

The purpose and intent of this local law is to provide for the licensing and identification of dogs by the town and the setting of licensing fees and impoundment fees.

It is not the purpose nor the intent of this local law to regulate or control the conduct or activities of dogs within the town such as the running at large of dogs, excessive howling or barking, injury to persons or other animals or property damage, such conduct to be regulated and controlled pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by other enacted applicable local law(s) of the Town of Lincklaen.

SECTION 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application. Words or phrases utilized herein but not defined herein but defined in Agriculture and Markets Law section 108 shall mean for purposes hereof the definition of same as stated in said Agriculture and Markets Law Section 108, as currently existing or as amended.

“Town” means the Town of Lincklaen, located in the county of Chenango and State of New York.

“Clerk” means the town clerk of the Town of Lincklaen.

“Owner” means any person who harbors or keeps any dog within the town.

“Owner of Record” means the person in whose name any dog was last licensed by the town or by any other municipality pursuant to the Agriculture and Markets Law, except that if any license is issued on application of a person under the 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of Section 3.10 herein, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

“Person” means any individual, corporation, partnership, limited liability company, limited liability partnership, association, or other organized group of persons, municipality, or executor, administrator, trustee, or other legal entity.

“Dog” means any member of the species canis familiaris.

“Harbor” means to provide food and or shelter to any dog within the town.

“License Fee”, “Surcharge”, “Additional Fees”, “Impoundment Fees” means the amount of money specified herein or as specified after the effective date hereof in an amendment to this local law enacted by the Town Board of the Town of Lincklaen, required to be paid by a person for the licensing of a dog.

SECTION 3.0 LICENSING OF DOGS, RABIES VACCINATION REQUIRED

- 3.01 **Licensing of Dogs.** The owner of any dog reaching the age of four (4) months shall immediately make application for a dog license. No license shall be required for any dog which is under the age of four (4) months and which is not at large, or that is residing in a pound or shelter maintained by or under control or agreement with the state or any county, city, town or village, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog preventative association.
- 3.02 **Special use of Dogs.** All special use dogs used as guide dogs, hearing dogs, search dogs, working search dogs, war dogs, detection dogs, police work dogs, and therapy dogs shall be licensed pursuant to the provisions hereof, except the owner of any such dog shall not be required to pay the licensing fee, surcharge fee or additional fee for such license. The town clerk shall mark conspicuously upon the license of any such dog the type of special use dog for which the license is issued.
- 3.03 **License Terms, Renewal.** A license shall be issued or renewed for a period of one (1) year, provided that no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided herein, a license shall be issued or renewed for a period of one year from the date of said statement.
- 3.04 **Application to Town Clerk.** Application for a dog license shall be made to the town clerk, except in the case of dog being redeemed or a dog being adopted from a shelter or pound that has contracted with the Town of Lincklaen for impoundment or shelter services, such application may be made to the manager of such facility, provided such manager has been authorized by the Town of Lincklaen to accept such applications.
- 3.05 **Information.** The application shall state the sex, actual or approximate age, breed, color, municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county, town, city or village of residence of the owner, the address within the town at which the dog shall be harbored, together with such other additional information as may be required by the town clerk.

3.06 Certificate of Rabies Vaccination or Statement in Lieu Thereof. Along with the application the applicant shall present 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 old age or other reason, the life of the dog or dogs would be endangered by the administration of the vaccine. The clerk or pound, shelter manager shall make a copy of such statement and shall file such record with a copy of the license.

3.07 Spayed, Neutered Dog. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the town clerk.

In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog.

3.08 Issuance of License. Upon presentation of the required application, certificate of rabies vaccination, certificate of spaying or neutering, or a statement or affidavit in lieu thereof or an exemption thereof and upon payment of the required licensing fee surcharge and additional fees as specified herein or as may be specified after the date hereof in an amendment to this local law enacted by the town board, the town clerk or the authorized pound, shelter manager shall validate the application which shall become a license for the dog and issue the identification number tag of the dog.

The town clerk of the authorized pound, shelter manager shall provide a copy of the license to the owner and retain a record of the license that shall be made available upon request to the commissioner for purpose of rabies and other animal disease control efforts and actions.

If the license shall be issued by an authorized pound, shelter manager, the issuing manager shall mail a copy of the license together with the fees to the town clerk within 48 hours.

3.09 Identification of Dogs. The town clerk or authorized pound, shelter manager, at the time a dog is first licensed pursuant to the provisions of this local law shall assign an identification number to the dog which identification number shall be contained upon a tag issued by the clerk to the owner. Said identification tag shall be affixed to a collar on the dog at all times, except a dog participating in a dog show shall be exempt from the wearing of such identification tag during such participation.

No tag carrying an identification number shall be affixed to the collar of any dog other than the one which that number has been assigned.

3.10 Change of Ownership, Death, Lost, Stolen Dog, Replacement Tag

a. No issued dog license shall be transferrable. In the event of a change in address of the owner of record, a change in address where a dog is harbored or a change in ownership of any such dog the owner of record shall within 10 days of any such change file with the town clerk a written report of such change. In the event of transfer of ownership, the new owner shall immediately apply to the town clerk for a license if the dog shall continue to be harbored by the new owner within the town. Such owner of record shall be liable for any violation of this local law, other local law, or any violation of the Agriculture and Markets Law until such filing is made or until the dog is licensed in the name of the new owner.

- b. If any dog which is being licensed hereunder is lost or stolen, the owner of record shall within 10 days of the discovery of such loss or theft file with the town clerk a written report of such loss or theft. In the case of permanent loss or permanent theft the owner of record of any such dog shall not be liable for any violation of this local law or the Agriculture and Markets Law committed after such report is filed.
- c. In the case of a dog's death, the owner of record shall so notify the town clerk either prior to renewal of licensure or upon the time of such renewal.
- d. An owner may apply to the town clerk for a replacement tag upon such form as supplied by the town clerk therefor and upon payment of the fee as hereinafter specified.

SECTION 4.0 LICENSE FEES

- 4.01 The annual fee for each dog license issued by the town clerk shall be:
- a. For each spayed or neutered dog a \$8.00 license fee, PLUS a \$1.00 surcharge fee, PLUS a \$0.00 additional license fee.
 - b. For each unspayed or unneutered dog a \$15.00 license fee, PLUS a \$3.00 surcharge fee, PLUS a \$0.00 additional fee.
 - c. For each replacement tag a \$3.00 fee.

Licensing fees shall be retained by the town and utilized only for controlling dogs, enforcing the provisions of this local law and the Agriculture and Markets Law, including subsidizing spaying or neutering of dogs and any facility as authorized under Agriculture and Markets Law section 116 utilized therefor, and subsidizing public humane education programs in responsible dog ownership.

Surcharge fees shall be utilized for the purposes of carrying out annual population control efforts as provided in Agriculture and Markets Law section 117-a.

Additional license fees shall be utilized for the purpose of recovering costs to the town associated with remuneration conducted pursuant to Agriculture and Markets Law section 113 (6); for the recovery of the town's costs associated with conducting the remuneration; costs of enforcing the provisions of this local law and the Agriculture and Market Law; for spaying and neutering animals; and for offsetting the costs to the town of procuring licensing tags.

- 4.02 Exemption for Certain Dogs. The following special dogs shall be wholly exempt from the payment of a license fee, surcharge fee and additional fee: guide dogs, hearing dog, search dog, working search dog, war dog, detection dog, police work dog, and therapy dog.

SECTION 5.0 PUREBRED LICENSE

- 5.01 The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license in lieu of the individual license required by Section 3.0 herein. A purebred license shall be valid for a period of one year and renewable annually thereafter prior to the expiration date.
- 5.02 Application for a purebred license shall be made to the town clerk and shall state the name, address, and telephone number of the owner, and the address within the town of which the dogs will be harbored, sex, breed, registry name and number, each purebred dog over the age of 4 months which is harbored upon the premises and which is eligible for registration. The application shall include a statement by the owner that all purebred dogs over the age of 4 months which are harbored on the premise have been listed.

The application shall be accompanied by a certificate of rabies vaccination for each listed dog or statement in lieu thereof together with the licensing fees as herein provided or as in the future may be specified in an amendment to this local law enacted by the town board.

- 5.03 (a) Upon receipt of the foregoing items, the clerk shall assign a license number, which shall be reserved for the sole use of the named owner and shall issue a purebred license. Once a purebred license has been issued, no refund therefor shall be made, and no purebred license shall be transferable.
- (b) The town clerk shall provide to the licensee at his or her expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored at the premises pursuant to the purebred license at all times except any such dog participating in a dog show during such participation. Such a tag shall be affixed only to the collar of a dog owned by a holder of the purebred license and harbored on the premises identified in the application for the purebred license.
- (c) Upon change of ownership any dog licensed under a purebred license, such dog shall be immediately subject to the licensing provisions of Section 3.0 herein if such dog is to be harbored within the town, except when the new owner holds a valid purebred license.

- 5.04 Purebred License Fees. The annual fee for each purebred license issued by the town clerk hereunder shall be:

- a) \$30.00, if no more than 10 registered purebred dogs or purebred dogs eligible for registration over the age of 4 months are harbored on the owner's premises at the time of application.
- b) \$60.00, if no more than 25 registered purebred dogs or purebred dogs eligible for registration over the age of 4 months are harbored on the owner's premises at the time of application.
- c) \$120.00, if more that 25 registered purebred dogs or purebred dogs eligible for registration over the age of 4 months and harbored on the premises at the time of application.
- d) In addition to said license fee the applicant shall pay a \$3.00 surcharge fee per purebred dog to be utilized for the purpose of carrying out annual population control efforts as provided in Agriculture and Market Law 117-a.

- e) In addition to said license fee and surcharge fee the owner shall be required to pay \$3.00 for each tag provided by the town clerk to the owner, or in the event said tag shall be a replacement tag the sum of \$3.00 per replacement tag.

SECTION 6.0 IMPOUNDMENT FEES

- 6.01 The owner of a dog seized and impounded pursuant to the provisions of the Agriculture and Markets Law may redeem such dog pursuant to the provision of the Agriculture and Markets Law provided the owner pays the following impoundment fees:
- a) \$10.00 for the first impoundment of any dog owned by that person.
 - b) \$20.00 for the first twenty- four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person.
 - c) \$30.00 for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundment, within one year of the first impoundment, of any dog owned by the person.
 - d) Plus the amount charged by the shelter or pound at which such dog was harbored following its seizure, including but not limited to cost for food, shelter, and necessary veterinary care.

The town board may from time to time adjust said impoundment fees by the adoption of an amendment to this local law wherein said fees area specified.

SECTION 7.0 PROHIBITED CONDUCT

- 7.01 It shall be a violation of this local law, punishable as provided in Section 8.0 herein, for:
- a) Any owner to fail to license any dog
 - b) Any owner to fail to have any dog identified by having affixed to the collar of such dog its identification tag issued by town clerk or otherwise hereunder.
 - c) Any person to knowingly affix to any dog any false or improper identification tag, special identification tag for a special use dog as defined herein, or purebred license tag.
 - d) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this local law or the Agriculture and Markets Law.
 - e) Any person to furnish any false or misleading information on any form, statement, certificate or affidavit to be file, or filed, with the town clerk pursuant to the provisions of this local law.

- f) The owner of custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in physical harm to another dog which other dog is a special use dog as defined herein.
- g) Any owner of a dog to fail to notify the town clerk in which his or her dog is licensed of any change of ownership or address as required pursuant to the provision of this local law.

SECTION 8.0 PENALTIES

- 8.01 A violation of Section 7.01 (a) through (g) of this local law shall be punishable as follows:
- a) By fine of \$25.00, except that:
 - i. Where the person was found to have violated this local law, or former Article Seven of the Agriculture and Market Law within the preceding 5 years, the fine shall be \$50.00, and
 - ii. Where the person was found to have committed two or more violations within the preceding 5 years, it shall be punishable by a fine of \$100.00 or imprisonment for not more than 15 days or both such fine and imprisonment.
- 8.02 Upon the failure of a defendant to pay any fine imposed pursuant to Section 8.01 herein within the time frame specified by the presiding town judge imposing said fine, including any extension of time for the payment of said fine granted by the town judge, the town judge in the exercise of his or her judicial discretion may order that such fine be reduced to a civil judgment in favor of the town against the defendant and cause to be filed in the office of the Clerk of Chenango County, New York such civil judgment whereupon same shall remain a matter of public record until paid by the defendant or same shall expire pursuant to the provision of applicable law. Upon payment by the defendant the judge shall cause to be filed with the office of the Chenango County Clerk a satisfied of said filed judgment.
- 8.03 A defendant charged with a violation of any provision of this local law may plead guilty to the charge in open court. He or she may also submit to the town judge having jurisdiction, in person by a duly authorized agent, or by registered mail, a statement (a) that he or she waives arraignment in open court and waives the aid of counsel, (b) that he or she pleads guilty to the offense charged, (c) that he or she elects and requests that the charge be disposed of and the fine or penalty be fixed by the court, (d) a statement of any explanation that he or she desires to make concerning the offense charged, and (e) that he or she makes all statements under penalty of perjury. Thereupon the town judge may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the town judge shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the town judge at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of the penal law of the State of New York.

**SECTION 9.0
EFFECTIVED DATE**

- 9.00 This local law shall be effective upon its filing with the office of the New York State Secretary of State except that if same shall be filed prior to January 1, 2011, the effective date hereof shall be January 1, 2011.

**SECTION 10.0
REPEAL OR PRIOR INCONSISTENT LOCAL LAWS**

- 10.01 (a) upon the effective date hereof, the terms, provisions and sections of all prior enacted local laws of the Town of Lincklaen regulating the licensing of dogs and setting licensing fees and impoundment fees are repealed, The provision, terms and sections of all prior enacted local laws regulating and controlling the running of dogs at large, excessive howling or barking, causing damage to persons, property or other animals shall remain in full force and effect unaltered hereby.
- (b) Conduct or activity not regulated herein nor regulated by any other enacted local law of the Town of Lincklaen, but regulated by Article 7 of the Agriculture and Markets Law shall be regulated and enforced pursuant to the provisions of the Agriculture and Markets Law.

Adopted by the Town of Lincklaen Town Board 12/15/2010 and effective January 1, 2011