

RESOLUTION

Councilman Audia offered the following resolution, which was seconded by Councilman W. Murphy, who moved its adoption:

WHEREAS, a local law was introduced entitled A LOCAL LAW OF THE TOWN OF WASHINGTON, DUTCHESS COUNTY, NEW YORK ENTITLED “LICENSING, IDENTIFICATION AND CONTROL OF DOGS;” and

WHEREAS, a public hearing in relation to said local law was opened on December 9, 2010 at 7:00 p.m., Prevailing Time, on which date the public hearing was closed; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Washington for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

TOWN OF WASHINGTON LOCAL LAW NO. OF THE YEAR 2010

Section 1. LICENSING, IDENTIFICATION AND CONTROL OF DOGS

A. Purpose.

The purpose of this local law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

B. Definitions.

1. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York; specifically, the following terms shall have the meaning given to them within that statutory section: "adoption"; "dog"; "domestic animal"; "euthanize"; "guide dog";

"harbor"; "identification tag"; "identified dog"; "official identification number"; "owner"; "owner of record"; "person"; "police work dog"; "war dog"; "hearing dog"; "service dog"; and "person with a disability."

2. As used in this article, the following terms shall have the meanings indicated:

CLERK -- Town Clerk.

RUN-AT-LARGE -- To be an unleashed dog off of the premises of the owner.

TOWN -- Town of Washington

C. License Required.

1. Pursuant to Article 7 of the Agriculture and Markets Law, no person shall own or harbor a dog within the Town of Washington unless such dog is licensed. Such license shall be renewed annually at fees determined by the Town Board of the Town of Washington. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog or police work dog, and copies of any license for such dogs shall be conspicuously labeled as such by the person issuing the license.
2. In accordance with Article 7 of the Agriculture and Markets law, the following are exempted from the licensing requirement:
 - a. Dogs under the age of four months, which are not at large, shall not require a license:
 - b. Dogs residing in a pound or shelter maintained by or under contract 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 protective association.
3. Grace period: Any dog harbored within the Town of Washington which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a non-resident of New York State and licensed by a jurisdiction outside the State of New York, shall be exempt from the licensing and identification provisions of this local law for a period of thirty (30) days.
4. The application shall state the sex, actual or approximate age, breed, color and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner.
5. The application shall be accompanied by the license fee and a certificate of rabies vaccination or a statement certified by a licensed veterinarian stating that, because

of old age or other reason, the dog's life would be endangered by the vaccine. 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 that 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 that 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 spayed or neutered dogs.

6. Dogs will be licensed for a one year license period. The expiration date will be the last day of the month of issuance, one year from the date of issuance.
7. No license shall be issued by a pound, shelter, or any other entity, on behalf of the Town of Washington.
8. The Town of Washington will not issue purebred licenses. All dogs will be licensed individually in accordance with this Local Law.
9. Dog licenses issued by another agency, municipality or shelter will not be recognized by the Town of Washington. The Town of Washington does not credit unexpired terms of licenses issued by another municipality, nor does it refund licensing fees for any reason, including, but not limited to: dogs and dog owners that relocate to a municipality other than the Town of Washington, dogs that are no longer alive, dogs that are relinquished or transferred to another owner and dogs that are missing, gone or lost.
10. Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund therefore shall be made.
11. The Clerk shall provide a copy of the license to the owner and retain a copy in the Town Clerk's office.
12. No license shall be transferrable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

D. Change of Ownership.

1. In the event of a change of ownership of any dog which has been licensed pursuant to this Local Law, or in the change of address of the owner of record of any such dog, the owner of record shall, within ten (10) days of such change, notify the Town Clerk of such change.

2. If any dog which has been licensed pursuant to this Local Law is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk of such loss or theft. The owner of record of any such dog shall not be liable for any violation of this Local Law committed after such notification.
3. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to the renewal of licensure or upon the time of such renewal.

E. Fees.

1. Dog licensing fees shall be determined by the Town Board of the Town of Washington and may be amended at any time by said Town Board. All revenue derived from such fees is the sole property of the Town of Washington and shall be used for the purposes permitted by Article 7 of the Agriculture and Markets Law.
2. In addition to the fees set by the Town Board of the Town of Washington, an additional \$1.00 shall be assessed to a license for an altered dog and an additional \$3.00 shall be assessed to a license for an unaltered dog. This additional charge is assessed for the purposes of carrying out animal population control efforts. As the Town of Washington does not have its own animal control program, these surcharge dollars will be remitted by the Town Clerk to the state animal population control fund, as required by Agriculture and Markets Law §117-a(7).
3. When the Town Board of the Town of Washington determines the need for a dog enumeration or dog census, a fee of \$30.00 will be assessed to all dogs found unlicensed or renewed at the time the enumeration is conducted. Such fees shall be the sole property of the Town of Washington and 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 municipality for enforcing this Local Law and for animal population control programs.
4. In addition to the license fee of this law, each applicant for a dog license shall pay a surcharge of \$3.00, which shall be retained by the Town of Washington and used to defray the cost of providing a replacement identification tag.
5. Pursuant to Agriculture and Markets Law §107(4), the licensing process and fees set forth in this Local Law do not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act.

F. Identification tag required.

1. All dogs required to be licensed must wear an identification tag, bearing the municipal identification number, attached to a collar at all times. No dog shall be permitted to be without a collar and an identification tag. All untagged dogs shall be subject to seizure and confinement by the Dog Control Officer. The collars of all dogs four months and over shall also have a tag evidencing rabies vaccination.
2. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.
3. A dog participating in a dog show shall be exempt from the identification requirements of both Agriculture and Markets Law §111 and this local law during such participation.

G. Female dogs in heat.

Any female dog in heat shall be confined within a protected enclosure on the premises of the owner or person harboring the dog.

H. Adequate shelter.

All premises occupied or used by dogs shall be kept in a clean and sanitary condition. Failure to provide adequate food, water or shelter shall be a violation of this local law and shall constitute grounds for seizure of the animal hereunder. These principles shall apply both to individual owners and to any other persons harboring dogs for training, retail sale or boarding.

I. Restrictions.

1. It shall be unlawful for any owner of any dog to permit or allow the animal to:
 - a. Run-at-large without control by an adequate leash when the dog is off the property of the owner. If at large or off its leash, such dog shall be subject to seizure and confinement.
 - b. Engage in a recurring practice of howling, barking, crying or whining so as to unreasonably disturb the comfort or quiet enjoyment of any person other than the dog's owner. A minimum period of 1/2 hour (30 minutes) of excessive noise shall be deemed necessary to constitute a violation of this section. The person owning or possessing a dog committing an act prohibited herein, with or without the knowledge, consent or fault of such person, shall be guilty of a violation of this section.

- c. Uproot, dig or otherwise damage any lawns, gardens, vegetables, flowers or garden beds on property not belonging to the owner of the dog.
 - d. Chase, bite, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
 - e. Engage in a recurring practice of chase, run alongside of or bark at vehicles or bicyclists while on a public street or highway or upon public or private property other than property of the owner or other person in control of said dog.
 - f. Cause damage or destruction to private or public property or to create a nuisance by defecating, urinating or digging on public or private property, other than property of the owner or other person in control of the dog.
 - g. Kill or injure any domestic animal.
- 2. Establishment of the fact or facts that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by Subsection 1 of this section shall be presumptive evidence against the owner or harbinger of such dog that he has failed to properly confine, leash or control his dog.
 - 3. Dogs are permitted in Town parks, when under control of leash, in designated areas only. Owners shall be responsible for immediate cleanup of any excrement deposited by their animals.
 - 4. When off the property of the owner, owners shall be responsible for immediate cleanup of any excrement deposited by their animals.

J. Enforcement official.

This chapter shall be enforced by the Town's Dog Control Officer. Those persons shall have the authority to issue appearance tickets or other process set forth within Article 7 of the Agriculture and Markets Law.

K. Seizure of dogs; redemption; disposition of unclaimed dogs.

- 1. Seizure; fines; redemption.
 - a. Any dog which is not carrying an identification tag and which is not on the owner's premises, any dog which is not licensed, whether on or off the owner's premises, and any dog in violation of any other provision of this

Local Law or which poses an immediate threat to the public safety, shall be subject to seizure, redemption, impoundment fees and adoption procedures as set forth in Article 7 - § 117 of the Agriculture and Markets Law.

- b. Pursuant to § 117, of the Agriculture and Markets Law, fines and impoundment fees are set by Town Board resolution in their adoption of the Town's Fee Schedule. An owner may redeem their dog within the applicable redemption period specified in subsection K(1)(c), below, upon payment all fines and impoundment fees, and by producing proof that the dog has been licensed.
 - c. Pursuant to § 117, of the Agriculture and Markets Law, redemption periods are set as follows:
 - i. Where an owner has been personally notified: seven days from the date of such notice.
 - ii. Where an owner has been sent notice by certified mail, return receipt requested: nine days from the date of such mailing.
 - iii. Where the dog is unidentified: five days, excluding the day the dog is seized or impounded.
2. No person shall hinder, resist or oppose the Dog Control Officer or any other person authorized to administer and enforce the provisions of this chapter in the performance of the person's duties pursuant to this chapter.
 3. No action shall be maintained against the Town of Washington, any duly designated Dog Control Officer or any other agent or officer of the Town to recover the possession or value of any dog, for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this local law.
 4. It shall be the duty of the Dog Control Officer or Officers to feed and care for, at the expense of the Town, any animal seized hereunder until disposal thereof be made as provided herein.
 5. All monies collected as fines or penalties as a result of any prosecution for violations of the provisions of this Local Law, and all bail forfeitures by persons charged with such violations, shall be the sole property of the Town of Washington and shall be used only for controlling dogs and enforcing this Local Law.

6. Fines and impoundment fees may be paid off in installments at the discretion of the Town Board and upon the execution of a promissory note by the owner of the dog.
7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized, provided that no dog shall be delivered for adoption unless it has been licensed pursuant to the provisions of this article prior to its release from custody.
8. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this article.

L. Violations.

It shall be a violation for:

1. Any owner to fail to license any dog;
2. Any owner to fail to have any dog identified as required by this Local Law;
3. Any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag;
4. 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;
5. Any person to furnish any false or misleading information on any form required to be filed with the Town of Washington pursuant to the provisions of this Local Law or rules and regulations promulgated pursuant thereto;
6. The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog; and
7. Any owner of a dog to fail to notify the Town of Washington of any change of ownership or address as required by this Local Law.
8. The Town of Washington may elect either to prosecute such actions described in this section as a violation under the penal law or to commence an action to recover a civil penalty.

M. Dangerous Dogs.

Agriculture and Markets Law §123 sets forth the applicable procedural and substantive requirements applicable within the Town of Washington when a dog is alleged to be dangerous.

N. Penalties for offenses.

Upon conviction, a violation of this article shall be deemed an offense and shall be punishable by a fine not exceeding \$50 for the first offense, \$100 for the second offense within the preceding five (5) years, and \$250 for each additional offense within the preceding five (5) years or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment.

O. Severability.

Each provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 2. This Local Law shall be filed immediately with the Secretary of State as provided by law and shall be effective as of January 1, 2011.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate executed by the attorney for the Town of Washington that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Prisco	Aye
Councilman Turletes	Aye
Councilman M. Murphy	Aye
Councilman Audia	Aye
Councilman W. Murphy	Aye

DATED: Millbrook, New York
December 9, 2010

MARY ALEX, Town Clerk