

THE TOWN BOARD OF THE TOWN OF SCHROON

LOCAL LAW NO.1 OF 2010

A LOCAL LAW OF THE TOWN OF SCHROON, NEW YORK ADOPTING THE AMENDMENTS TO ARTICLE 7 OF THE NEW YORK STATE AGRICULTURE AND MARKETS LAW BY PART T OF CHAPTER 569 OF THE LAWS OF 2010

The Board of the Town of Schroon, in regular session convened, ordains as follows:

BE IT THEREFORE ENACTED by the Town Board of the Town of Schroon pursuant to Municipal Home Rule Law Section 10(4)(a) of the State of New York as follows:

Section 1. Purpose

The purpose of this local law is to adopt the amendments to Article 7 of the New York State Agriculture and Markets Law by Part T of Chapter 569 of the Laws of 2010 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.

Section 2. Application

A. Any dog harbored within the Town of Schroon 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 of the State of New York, shall be exempt from the licensing and identification provisions of this local law.

B. This local law shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.

C. This local law shall 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.

Section 3. Definitions

As used in this local law, unless otherwise expressly stated or unless the context or subject matter requires otherwise:

"Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring of any dog, seized or surrendered.

"Clerk" means the clerk of any county, town, city or village where licenses are validated or issued pursuant to this article.

"Commissioner" means the state commissioner of agriculture and markets.

"Dog" means any member of the species canis familiaris.

"Dog control officer" means any individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.

"Euthanize" means to bring about death by a humane method.

"Guide dog" means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.

"Harbor" means to provide food or shelter to any dog.

"Identification tag" means a tag issued by the licensing municipality which sets forth an identification number, together with the name of the municipality, the state of New York, contact information, including telephone number, for the municipality and such other information as the licensing municipality deems appropriate.

"Identified dog" means any dog carrying an identification tag.

"Municipality" means the Town of Schroon.

"Owner" means any person who harbors or keeps any dog.

"Owner of record" means the person in whose name any dog was last licensed pursuant to this article, except that if any license is issued on application of a person under eighteen 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 one hundred twelve of this article, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen 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, association or other organized group of persons, municipality, or other legal entity.

"Police work dog" means any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

"Recognized registry association" means any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the commissioner.

"War dog" means any dog which has been honorably discharged from the United States armed services.

"Hearing dog" means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

"Service dog" means 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.

"Person with a disability" means any person with a disability as that term is defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

"Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the department; provided, however, that such services provided by said dog shall be performed without charge or fee.

"Therapy dog" means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

"Detection dog" means 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.

Section 4. Licensing of dogs required; rabies vaccination required.

A. All dogs within the Town of Schroon four (4) months of age or older, unless otherwise exempted, shall be licensed. The owner of each dog required to be licensed shall obtain, complete, and return to the Town Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town of Schroon. Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required. The Town Clerk shall make or cause to be made from such statement a record of such information and shall file such record with a copy of the license. Such records shall be made available to the

commissioner upon request for rabies and other animal disease control efforts. Each license issued shall be valid for a period of one (1) year and shall not be transferable.

B. 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 and address of residence of the owner.

C. 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 clerk or authorized dog control officer. 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 a spayed or neutered dog as set forth in this local law.

D. Upon validation by the Town Clerk, the application shall become a license for the dog described therein. The Town Clerk shall: (i) provide a copy of the license to the owner; (ii) retain a record of the license that shall be made available upon request to the commissioner for purposes of rabies and other animal disease control efforts and actions.

Section 5. License Fees

A. The Town of Schroon hereby establishes the fee for a dog license issued pursuant to this local law at \$2.50 for spayed or neutered dogs and \$10.50 for unspayed or unneutered dogs. All revenue derived from such fees shall be the sole property of the Town of Schroon and shall be used only for controlling dogs and enforcing this local law.

B. Excepted from payment of the license fee are applications submitted for a dog license for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as may be appropriate, by the Town Clerk.

C. In addition to the license fee established by this local law, each applicant for a dog license shall pay a surcharge of \$1.00 if the dog to be licensed is altered, or a surcharge of \$3.00 if the dog sought to be licensed is unaltered. The Town Clerk shall remit such surcharge to the New York State Department of Agriculture and Markets for transmittal to the State Comptroller for deposit in the animal population control fund.

D. In addition to the license fee imposed by this local law, each applicant for a dog license shall pay a surcharge of \$2.50 which shall be retained by the Town of Schroon and used to defray the costs of an enumeration of dogs living within the Town of Schroon and the cost of providing the replacement of identification tags.

E. All future fees may be changed by a Town resolution.

Section 6. Identification of dogs

A. Each dog licensed pursuant to local law shall be assigned, at the time the dog is first licensed, a municipal identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from the identification requirements of Section 111 of the Agriculture and Markets Law during such participation.

B. 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.

Section 7. Change of ownership; lost or stolen dog.

A. In the event of a change in the ownership of any dog which has been licensed pursuant to this local law or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the Town Clerk a written report of such change. Such owner of record shall be liable for any violation of this local law until such filing is made or until the dog is licensed in the name of the new owner.

B. If any dog which has been licensed pursuant to this local law is lost or stolen, the owner of record shall, within ten 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 a 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 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.

Section 8. Dog Control Officers

A. Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this local law. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this local law may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any proceeding, whether criminal or civil in nature undertaken in accord with the provisions of this local law

B. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly 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 official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

C. Every dog control officer shall file and maintain such records for not less than three years following the creation of such record, and shall make such reports available to the commissioner upon request.

D. The dog control officer shall ascertain and list the names of all persons in the Town of Schroon owning or harboring dogs.

Section 9. Seizure of dogs; redemption periods; impound fees; adoption.

A. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer shall seize:

(i) any dog which is not licensed, whether on or off the owner's premises;

(ii) 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; and

(iii) any dog which poses an immediate threat to the public safety. Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision two of section one hundred twenty-three of the Agriculture and Markets Law.

B. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer may seize any dog in violation of this local law or any ordinance relating to the control of dogs,

C. Each dog seized in accordance with the provisions of this local law shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

D. The owner of any dog impounded by the Town of Schroon shall be entitled to redeem that dog within five (5) business days, excluding the day the dog is impounded, from the day the dog is impounded, provided that the owner produces proof that the dog is licensed and identified and pays a fee of \$100.00 for the first impoundment; a fee of \$125.00 for the second impoundment and a fee of \$3.00 for each additional twenty-four hour period; a fee of \$150.00 for a third and each subsequent impoundment and a fee of \$3.00 for each additional twenty-four hour period.

E. All impoundment fees shall be the property of the Town of Schroon and shall be used only for controlling dogs and enforcing this local law and any rule, regulation, or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under section one hundred sixteen of the Agriculture and Markets Law used therefore, and subsidizing public humane education programs in responsible dog ownership.

F. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after day of notice, during which period the dog may be redeemed by the owner. If such

notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by this local law and by producing proof that the dog has been licensed.

G. 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 subject to subdivisions six, eight and nine of this Section 117 of the Agriculture and Markets Law.

Section 10. Violations

A. It shall be a violation, punishable as provided in this local law, 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;
- (4) any person to furnish false or misleading information on any form required to be filed with the Town of Schroon pursuant to the provisions of this local law or rules and regulations promulgated thereto;
- (5) any owner of a dog to fail to notify the Town of Schroon in which his or her dog is licensed of any change of ownership or address as required by this local law.

B. It shall be the duty of the dog control officer of the Town of Schroon to bring an action against any person who has committed within the Town of Schroon any violation set forth in subsection A. The Town of Schroon may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.

A violation of subsection A shall be punishable, subject to such election, either:

- (1) where prosecuted pursuant to the penal law, by a fine of not less than twenty-five dollars, except that (a) where the person was found to have violated this section or former Article 7 of the Agriculture and Markets Law within the preceding five years, the fine may not be less than fifty dollars, and (b) where the person found to have committed two or more violations within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars or imprisonment for not more than fifteen days, or both; or
- (2) where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty five dollars, except that (a) when the person was found to have violated this section or Article 7 of the Agriculture and Markets Law within the preceding five years, the civil penalty may not be less than fifty dollars, and (b) where the person was found to have committed two or

more violations within the preceding five years, the civil penalty may not be less than one hundred dollars.

C. 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 magistrate have jurisdiction, in person, by duly authorized agent, or be registered mail, a statement (1) that he or she waives arraignment in open court and the aid of counsel, (2) that he or she pleads guilty to the offense charged, (3) that he or she elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (4) of any explanation that he or she desires to make concerning the offense charged, and (5) that he or she makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant has 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 magistrate 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 said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

D. Any person who intentionally refuses, withholds, or denies a person, because he or she is accompanied by an on duty police work dog, working search, war, or detection dog as defined in this local law, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to two hundred dollars for the first violation and up to four hundred dollars for each subsequent violation.

Section 11. Disposition of Fines

All moneys collected as fines or penalties by the Town of Schroon 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 property of the Town of Schroon and shall be paid to the Town of Schroon. Such moneys shall be used only for controlling dogs and enforcing the local law, including subsidizing the spaying or neutering of dogs and any facility as authorized under Section 116 of the Agriculture and Markets Law used thereof, and subsidizing public humane education programs responsible for dog ownership.

Section 12. Severability

If any section of this local law or the application thereof to any person, circumstance or property shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person, circumstance or property, and to this end, the provisions of each section of this local law are declared to be severable.

Section 13. Super session and Repeal of other laws

All ordinances or parts of ordinances in conflict with the provisions of this local law are hereby repealed to the extent necessary to give this local law full force and effect.

Section 14. Effective Date

The local law shall be effective immediately upon filing with the Secretary of State.

Approved as to form this day of December, 2010.