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FILED  
STATE RECORDS

Town of Newcomb

MAR 27 2012

**Local Law No. 1 of the year 2010.**

DEPARTMENT OF STATE

**A local law to amend Local Law No. 1 of the Town of Newcomb relating to the control of dogs.**

**Be it enacted by the Town Board of the Town of Newcomb, as follows:**

**Section 1 Amendment of Local Law**

Local Law No. 1 of the Town of Newcomb is hereby amended in its entirety to read as follows:

**Licensing and Control of Dogs**

**§ 1. Statutory authority**

This Article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law of the State of New York, as amended by Chapter 59, Part T, of the laws of 2010, and as may be subsequently amended or revised.

**§ 2. Purpose.**

The purpose of this Article shall be to preserve public peace and good order in the Town of Newcomb and to promote the public health, safety and welfare of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Newcomb and to comply with the Town's obligations under the New York State Agriculture and Markets Law regarding the licensing of Dogs.

**§ 3. Definitions**

As used in this Article, the following terms shall have the meanings indicated:

AT LARGE -- An unleashed dog not under full control of a responsible adult.

DOG CONTROL OFFICER OR ANIMAL CONTROL OFFICER -- A person or persons appointed by the Town for the purpose of enforcing this Article.

LEASHED -- Restrained by a leash, attached to a collar or harness of sufficient strength to restrain the dog and which shall be held by a person having the ability to control the dog.

OWNER – The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost and such loss was promptly reported to the Animal Control Officer, or any peace officer, and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept in, brought into, or comes within the Town. Any person owning or harboring a dog for a period of one month prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the "owner" of such dog for the purpose of this article. In the event that the "owner" of any dog found to be in violation of this article shall be under 18 years of age, any head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog in violation of this article.

#### **§ 4. Prohibited acts.**

It shall be unlawful for any owner of a dog, or any person harboring any dog, in the Town of Newcomb to permit or allow such dog to:

A. Run at large on premises other than on the premises of the owner unless the dog is restrained by an adequate collar and leash, or unless it is accompanied by its owner or a responsible person who has full control of the animal. For the purposes of this Local Law, a dog or dogs hunting in company with a hunter or hunters shall be considered as accompanied by its owner.

B. Engage in habitual loud howling, barking or whining or to conduct itself in such a manner as to habitually annoy any person other than the owner or person harboring such dog.

C. Cause damage or destruction to or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.

D. Chase or otherwise harass any person in such a manner as to reasonably cause intimidation or to put such a person in reasonable apprehension of bodily harm or injury.

E. Habitually chase or bark at motor vehicles.

F. Kill or injure any dog, cat or other household pet.

#### **§ 5 . Female dogs.**

It shall be unlawful for the owner or person harboring any female dog to permit such dog to run at large while in heat and such dog shall be confined to the premises of the owner during such time.

## **§ 6. Dogs to be muzzled.**

If any dog has been determined by any court to have bitten a person at any time, the owner of such dog or person harboring such dog, shall keep such dog properly muzzled at all times thereafter.

## **§ 7. Dog Control Officer or Animal Control Office.**

A Dog Control Officer or Animal Control Officer may be designated by the Town Board to enforce the provisions of this Local Law, and provisions of the New York State Agriculture and Markets Law. Such Animal Control Officer may investigate and report to any Town Justice of the Town of Newcomb regarding any violation of this Local Law and may see that any Order or Orders of the Town Justice Court in such cases are carried out.

## **§ 8. Licensing of dogs; fees.**

A. License required. All dogs in the Town of Newcomb shall be licensed with the Town Clerk by the age of four months, and any person applying for a dog license shall present a current certificate of rabies vaccination at the time of making application for a license or for the renewal of an existing license. The License tag must be affixed to a collar worn by the dog any time the dog is off its owner's premises.

B. Expiration of license. All dog licenses shall be valid for a period of one year and shall expire at the end of the month one year from the date of issuance.

C. License fees. The fee for a spayed or neutered dog shall be \$5, which fee includes the assessment of a surcharge of \$1 for the purpose of carrying out a program of animal population control. The fee for an unsprayed or unneutered dog shall be \$15, which fee includes the assessment of a surcharge of \$3 for the purpose of carrying out a program of animal population control. Such fees shall be reviewed by the Town Board periodically and may be changed by resolution of the Town Board, as necessary.

D. Lost Tag. The fee to replace a license tag which has been lost shall be \$3.

E. Enumeration fee. Should the Town Board determine the need for a dog enumeration, a fee of \$5 will be assessed to the owner of any dog found unlicensed or for which the license has not been renewed at the time the enumeration is conducted.

F. Purebred license. The Town of Newcomb shall not issue purebred or kennel licenses. All dogs shall be licensed individually in accordance with the fees stated above.

G. Service dogs. The Town of Newcomb shall require a license for any guide dog, service dog, hearing dog or detection dog as those terms are defined by the New York State Agriculture and Markets Law, the license fee will be waived.

H. Shelters. The Town of Newcomb does not allow the licensing of dogs by a shelter. Any shelter shall send the adoptive dog owners to the Town Clerk for the purchase of the license for adoption purposes.

I. Purchase. All dog licenses shall be purchased in person at the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee shall accompany the forms. There shall be no refund of fees.

J. Use of fees. All fees shall be used in funding the administration of the Dog Control Law of the Town of Newcomb.

### **§ 9. Seizure of dogs; redemption; disposition; impoundment fee.**

The Animal Control Officer may seize any unlicensed dog whether on or off the owner's premises and/or any dog not wearing a tag, not identified and not on the owner's premises.

A. If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of no less than five days for redemption by its owner.

B. If a dog seized is wearing an identification number, the owner shall be promptly notified either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of no less than seven days; if notified by mail, no less than nine days.

C. The fees for any seizure and impoundment of each dog in violation of Article 7 of the Agriculture and Markets Law or of Article III of this chapter are as follows:

(1) For the first impoundment: \$45 plus the prevailing charge to the Town of Newcomb for each day of impoundment.

(2) For the second impoundment: \$60 plus the prevailing charge to the Town of Newcomb for each day of impoundment.

(3) For the third impoundment: \$90 plus the prevailing charge to the Town of Newcomb for each day of impoundment.

D. If not redeemed, the owner shall forfeit all title to the dog and it shall be released to an authorized humane society or kennel to be adopted or euthanized.

### **§ 10. Record of seizure.**

Upon taking custody of any animal, the Animal Control Officer shall make a record of the matter. The record shall include date of pickup, breed, general description, sex, identification numbers, time of pickup, location or release and name and address of owner, if any.

## **§ 11. Complaints.**

Any person who observes a dog in violation of any section of this article may file a signed complaint, under oath, with a Justice of the Town of Newcomb or with the Animal Control Officer, specifying the violation, the date thereof, the damage caused, a description of the dog and the name and address, if known, of the dog owner or other person harboring the dog.

## **§ 12. Enforcement.**

The Animal Control Officer of the Town of Newcomb may administer and enforce the provisions of this article and shall have the authority to issue and serve appearance tickets and to seize dogs, either on or off the owner's premises, if witnessed to be in violation of this article.

## **§. 13. Disclaimer of liability.**

The owner or harbinger of any dog so destroyed under the provisions of this article, whether destroyed by a Dog Warden/Animal Control Officer or peace officer or released to an authorized humane society or veterinarian, shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

## **§ 14. Penalties for offenses.**

Any violation of this article shall be punishable, for each violation, by a fine of not more than \$100 dollars for the first offense and a fine of not more than \$250 and/or imprisonment for not more than 15 days, for any second or subsequent offense.

## **Section 2. Repealer.**

All local laws or ordinances and parts thereof inconsistent with this local law are hereby repealed.

## **Section 3. 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 not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## **Section 5. When effective.**

This local law shall take effect January 1, 2011, after filing with the Secretary of State of the State of New York.

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2010 of the Town of Newcomb was duly passed by the Newcomb Town Board on December 14, 2010, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one, above.

Mary Pound  
Town Clerk, Town of Newcomb

Date: 12-15-2010

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF WARREN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]  
Signature

Town Counsel

Title

~~County~~  
~~City of~~ Newcomb  
Town  
~~Village~~

Date: 1/3/12