

TOWN OF MARBLETOWN  
TOWN BOARD

LOCAL LAW NO. 4 OF 2010

A LOCAL LAW REPEALING CHAPTER 103 “DOGS” OF THE TOWN OF MARBLETOWN CODE AND REPLACING IT WITH A NEW CHAPTER 103 ENTITLED “LICENSING, IDENTIFICATION AND CONTROL OF DOGS” TO ADDRESS RECENT AMENDMENTS TO THE STATE LAW CONCERNING DOG LICENSING AND IDENTIFICATION

Be it enacted by the Town Board of the Town of Marbletown as follows:

SECTION 1. PURPOSE

This Local Law is intended to replace Chapter 103 “Dogs” of the Town Code of the Town of Marbletown to address recent amendments to New York State Law that shift the responsibility for the licensing and identification of dogs from the State to the Town.

SECTION 2. REPEAL

Chapter 103 “Dogs” of the Town of Marbletown Code is hereby repealed.

SECTION 3.

Chapter 103 “Dogs” of the Town of Marbletown Code is hereby replaced with the following:

**Chapter 103**

**LICENSING, IDENTIFICATION AND CONTROL OF DOGS**

**§ 103-1. Purpose.**

The purpose of this Chapter 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.

**§ 103-2. Authority.**

This Chapter is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of New York State.

**§ 103-3. Definitions.**

- A. All terms not specifically defined herein shall have the meaning assigned to such terms in Section 108 of the Agriculture and Markets Law of the State of New York. If a term is not

defined herein or by Section 108 of the Agriculture and Markets Law of the State of New York then such term shall be interpreted to give it its customary meaning.

B. As used in this Chapter, the following terms shall have the meanings indicated:

**AGRICULTURE AND MARKETS LAW**—The Agriculture and Markets Law of the State of New York in affect as of the effective date of this Chapter and all amendments thereto.

**AT LARGE**— Unleashed and on property open to the public or on private property not owned or leased by the owner of the dog without permission of the owner or the tenant of the property; however, no dog shall be deemed at large if it is accompanied by and under the full control of its owner or other responsible person while on the lands of its owner, lawfully on public lands, or on private lands with the permission of the land owner or tenant or if the dog is a police work dog lawfully being used or trained for police work while under the full control of its trainer or a police officer.

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

**DOG CONTROL OFFICER**—Any individual appointed by the Town to enforce this Chapter or Article 7 of the Agriculture and Markets Law, or any authorized officer, agent or employee of any incorporated animal humane society or incorporated dog protective association under contract with the Town to assist in the enforcement of this Chapter and Article 7 of the Agriculture and Markets Law.

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

**IDENTIFICATION TAG**—A tag issued by the Town Clerk which sets forth an identification number, together with the name of the Town and the State, contact information including the telephone number of the Town Clerk and any other information deemed appropriate by the Town.

**OWNER**— Any person who harbors or keeps any dog or other animal unless such dog is lost and such loss was promptly reported to the Dog Control Office of the Town or a person harbors a dog on a temporary emergency basis to protect and aid a stray or lost dog.

**OWNER OF RECORD**— The person in whose name a dog was last licensed pursuant to this Chapter. In the event the owner of a dog is under 18 years of age, the custodial parent or guardian, or the head of the household in which said minor principally resides, shall be deemed to be the owner of such dog for the purposes of this Chapter.

**PERSON**— Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

**POLICE WORK DOG**—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 assist law enforcement officers and is actually being used for such work.

**RESIDENT**—A person who maintains a residence within the Town of Marbletown, County of Ulster, State of New York.

TOWN— Town of Marbletown in the County of Ulster, State of New York.

TOWN CLERK--- Town Clerk of the Town.

VEHICLE—Every device in, upon or by which any person or property is or may be transported or drawn by any power, including muscular power, and shall include but shall not be limited to bicycles, motorcycles, automobiles, trucks, snowmobiles, coaches, wagons, platforms and trailers.

**§ 103-4. Licensing and identification of dogs.**

- A. Licensing of dog required; rabies vaccination required.
  - 1. No person shall own or possess a dog within the Town that is four (4) months of age or older unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and this Chapter unless exempted by the Agriculture and Markets Law or this Chapter. The Town does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town Clerk of the Town in which the dog will be harbored for licensing or to the Town Clerk of the Town where the shelter is located for the purchase of the license for adoption purposes.
  - 2. Each license application shall be accompanied by
    - a. 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 and
    - b. in the case of a spayed or neutered dog, a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, if not already on file with the Town Clerk, or a statement from a licensed veterinarian that such procedure would endanger the dog's life. In the case where a statement from a licensed veterinarian is received, the license fee for the dog shall be the same as for a spayed or neutered dog.
- B. Exemptions.
  - 1. Any dog harbored within the Town which is owned by a resident of New York City and 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 for a period of thirty (30) days be exempt from the licensing and identification provisions of this local law.
- C. Application. 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 application fee and any applicable license surcharges and additional fees established by the Town as set forth in this Chapter. The application shall include at least the following information: name, address and telephone number of the owner; the county and town where the dog is harbored; the sex; actual or approximate age; breed; color; and the municipal identification number of the dog and other identification marks, if any.
- D. Issuance of license; identification tag.
  - 1. Upon validation by the Town Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof. Each copy of any license for any "Guide Dog," "Hearing Dog," "Service Dog," "War Dog," "Working Search Dog," "Detection Dog," "Police Work Dog" and "Therapy Dog"

- shall be conspicuously marked with such applicable title as deemed appropriate by the Town Clerk.
2. No individual dog license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
  3. Change of ownership; lost, stolen or deceased dogs.
    - i. 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.
    - ii. In the event of a change of ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Town Clerk.
    - iii. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Town Clerk.
    - iv. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of the license or upon the time of such renewal.
  4. Identification tag.
    - i. The Town Clerk shall assign a Town identification number to the dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times with the exception of times during which the dog is participating in a dog show.
    - ii. The Town identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes in ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
    - iii. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.
    - iv. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner from the Town Clerk at the owner's expense.
- E. Term of license and renewals. Each individual dog license issued pursuant to this Chapter shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued. 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.
- F. Purebred dog license.
1. The owner of one or more purebred dogs registered by a recognized registry association as defined in Agriculture and Markets Law Section 108 may annually make an application for a purebred license in lieu of or in addition to the individual dog license required by this Section. A purebred license shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued. Said license and related application are subject to the same provisions for individual dog licenses as set forth herein except that fees and surcharges may vary as set forth herein.
  2. In addition to the application requirements set forth for individual dog licenses, the purebred dog license application shall state the registry name and number of each purebred registered dog over the age of four months which is harbored on the premises

- and eligible for registration along with a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.
3. Upon receipt of a complete application and payment of all fees and surcharges, the Town Clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license.
  4. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the individual dog licensing provisions unless the new owner holds a valid purebred license.

G. Fees and surcharges.

1. The dog license fees and surcharges are established as follows and are payable to the Town prior to the issuance of any license or tag which is the subject of this Chapter:
  - a. Individual dog license fees
    - i. Spayed or neutered dog: \$4.00
    - ii. Unspayed or unneutered dog: \$9.00
  - b. Purebred dog license fees
    - i. \$25.00, if no more than ten (10) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the owner's premises at the time of the application.
    - ii. \$50.00, if no more than twenty-five (25) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the owner's premises at the time of the application.
    - iii. \$100.00, if more than twenty-five (25) registered purebred dogs or purebred dogs eligible for registration over the age of six (6) months are harbored on the owner's premises at the time of the application.
  - c. State-mandated animal population control surcharge
    - i. Each individual dog license for a spayed or neutered dog shall be subject to an animal population control surcharge of \$1.00.
    - ii. Each individual dog license for an unspayed or unneutered dog shall be subject to an animal population control surcharge of \$3.00.
    - iii. Purebred surcharge. A purebred surcharge of \$3.00 for each unspayed or unneutered dog that is over the age of four (4) months and is harbored by the license holder shall be charged.
  - d. Local surcharges
    - i. Dog enumeration surcharge. Each dog found to be unlicensed during a Town dog enumeration, shall be subject to a \$10.00 dog enumeration surcharge payable at the time the application is filed to license said dog.
    - ii. Replacement tag surcharge. A replacement tag surcharge of \$10.00 shall be charged to offset the costs associated with the provision and replacement of identification tags.
2. Exemptions from fees. The following dogs are exempt from the Town's dog licensing fees:
  - a. Guide Dog,
  - b. Hearing Dog;
  - c. Service Dog;
  - d. War Dog;
  - e. Working Search Dog;
  - f. Detection Dog;
  - g. Police Work Dog; and

- h. Therapy Dog.
- H. Violations. It shall be a violation as set forth in Section 118(1) of the Agriculture and Markets Law, punishable as provided for herein, for any owner to fail to license any dog; for any owner to fail to have any dog identified as required in this Chapter; for any person to knowingly affix to any dog any false or improper identification tag, special identification tag or purebred license tag; for any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose or to fail to exercise due diligence in handling his or her dog if the harm results in harm to another dog that is a Guide, Hearing or Service Dog as set forth in Section 103-5 herein; for any person to furnish any false or misleading information on any form required to be filed with the Town pursuant to this Chapter; or for any owner of a dog to fail to notify the Town in which his or her dog is licensed of any change of ownership or address as required by this Chapter.

**§ 103-5. Dog control.**

- A. Prohibited conduct. It shall be a violation of this Chapter for the owner of any dog to permit or allow such dog to
  - 1. Be at large; or
  - 2. Engage in habitual loud howling, barking, crying or whining, or any other behavior which unreasonably disturbs the comfort or repose, or causes damage or destruction to real or personal property, of any person other than the owner of such dog or a member of the owner's household residing with the owner or a guest of such owner; or
  - 3. Commit a nuisance by defecating or urinating upon public property or upon the premises of any person other than the owner of such dog; or
  - 4. Chase, threaten, harass, annoy, intimidate or alarm any person or to place any person in reasonable apprehension of bodily harm or injury, unless such person is unlawfully on the owner's premises or in the owner's residence or such person is threatening the safety of the owner's person, family, guests or property, and such dog is protecting or guarding the owner, the owner's real or personal property, or any person lawfully on the owner's property or in the owner's residence; or
  - 5. Habitually chase or run alongside of moving vehicles, horses or pedestrians lawfully using the public highways.

**§ 103-6. Seizure, impoundment and redemption.**

- A. Seizure and impoundment.
  - 1. Any dog which appears to any enforcement officer, as defined in Section 103-10 herein, to be in violation of this Chapter or Article 7 of the Agriculture and Markets Law may be seized in accordance with the provisions of Section 117 thereof.
  - 2. Every dog so seized shall be held for a redemption period of ten (10) days from the date of seizure, or in the event that the owner of such dog can be identified and notified of such seizure within such period as required by Section 117(6) of the Agriculture and Markets Law, ten (10) days from the date of such notification, whichever occurs last. This provision is meant to supersede and supplant the shorter redemption periods set forth in Section 117(6) of the Agriculture and Markets Law.
  - 3. Every dog so seized shall be properly fed, watered, sheltered and given necessary medical treatment by the Town so long as such dog is in the possession and control of any officer, employee, contractor or agent of the Town.
- B. Redemption. Every dog so seized may be redeemed by any person producing proof of the following and upon payment of the fees set forth herein:

1. Ownership or authority for possession of such dog;
  2. A current valid New York State license for such dog (which may also be accepted as proof of ownership); and
  3. An identification tag for such dog bearing the dog's New York State identification number.
- C. Fees.
1. Impoundment. If the owner of any seized dog is known, such owner shall be required to pay the impoundment fees set forth in Section 103-6(C)(2) below whether or not the owner chooses to redeem such dog. The Town may commence a civil action for the collection of such fees in addition to any applicable civil penalty.
  2. Fee schedule. In addition to any recorded medical expenses incurred by the Town for the safety and welfare of the dog or the public, the person redeeming the dog shall pay
    - a. \$10 for the first impoundment of any dog owned by that person;
    - b. \$20 for the second impoundment for any dog owned by that person; and
    - c. \$30 for the third impoundment and any impoundment thereafter for any dog owned by that person.

**§ 103-7. Voluntary surrender of licensed dogs; fees.** A resident of the Town who owns a licensed dog may surrender such dog to the Dog Control Officer for adoption pursuant to the provisions in this Chapter upon payment of a fee of \$10.00.

**§ 103-8. Adoption; fees.**

- A. Unredeemed dogs; adoption. Any dog seized by the Town which is unredeemed at the end of the redemption period set forth in Section 103-6 of this Chapter becomes the property of the Town. Any unredeemed dog may, at the discretion of the Dog Control Officer, be held for adoption.
1. Adoption applications. Unredeemed dogs may be adopted pursuant to the following provisions and conditions. The person applying to adopt the dog, hereinafter called the "applicant," shall be a resident of, and of legal age to license a dog in, New York State, and shall complete an application for adoption on a form provided by the Town, which shall contain the following:
    - a. The name, address, telephone number, age and the town and county of residence of the applicant; and
    - b. A statement that the applicant has sufficient means to properly feed, house and care for the dog to be adopted, hereinafter called the "dog;" will within two weeks of the adoption, if it is approved, have the dog tested for heartworm infection; will comply with all laws, ordinances, rules and regulations relating to the applicant's ownership of the dog, in effect in the town, village or city of the applicant's residence; will not knowingly allow, sell or give the dog to be used for research purposes; and will allow a representative of the Town to visit the applicant's residence to view and examine the dog at least once within six months of the date of adoption if deemed necessary by the Dog Control Officer.
  2. Adoption applications shall be approved or denied by the Dog Control Officer. If, in the opinion of the Dog Control Officer placing the dog with an applicant will jeopardize the health, safety or well being of the dog, the Dog Control Officer shall deny the application. No dog shall be sold, given or allowed by the Town to be adopted for research purposes.
- B. Adoption fees. All applications for adoption shall be accompanied by an application fee of \$50 which shall be refunded to the applicant only if the application is denied.
- C. Requirements for possession. Upon approval of an application for adoption, the applicant shall produce the following prior to obtaining possession of the dog from the Town:

1. Proof of a current, valid New York State dog license for the dog being adopted.
2. Proof of proper identification for the dog as required by the Agriculture and Markets Law.
3. A fee of \$25.00, which shall be refundable to the applicant within fifteen (15) days upon the submission of a certificate from a Doctor of Veterinary Medicine, or other proof satisfactory to the Dog Control Officer, that the adopted dog has been spayed or neutered. The Dog Control Officer may waive the adoption fee in the event that other arrangements can be made that guarantee the immediate spaying or neutering of the adopted dog.

**§ 103-9. Euthanization.** Any dog unredeemed at the expiration of the applicable redemption period, or, any dog which is thereafter held for adoption but is not redeemed or adopted at the end of the applicable adoption period as determined by the Dog Control Officer, may be euthanized.

Notwithstanding any other provision of this Chapter, any dog in the possession or control of the Town may be euthanized where the dog has an illness, disease or injury which in the opinion of a licensed veterinarian is eminently fatal or has an injury which in the opinion of any two enforcement officers is eminently fatal.

**§ 103-10. Enforcement, penalties and complaints.**

A. Enforcement.

1. The provisions of this Chapter shall be enforced by any Dog Control Officer, peace officer when acting pursuant to his or her special duties, or police officer in the employ of or under contract with the Town, all of whom shall be deemed “enforcement officers” for the purposes of this Chapter. In addition to the provisions set forth herein, a violation of this Chapter includes each and every violation specified in the Agriculture and Markets Law and within the jurisdiction of the Dog Control Officer. Notwithstanding Section 103-10(B) of this Chapter, the fines, penalties and terms of imprisonment for violations specified in Sections 118(4), 118(5), 121(3), 123 and 123-b of the Agriculture and Markets Law shall be consistent with those set forth in said law.
2. The enforcement officers may seek a civil penalty for a violation in a civil action or a fine or imprisonment or both for a violation pursuant to the New York State Penal Law. Any enforcement officer who observes a violation of this Chapter committed in his presence, or who has probable cause to believe that a violation of this Chapter has occurred, may issue and serve upon the person whom such officer has probable cause to believe has committed such violation any process, including an appearance ticket pursuant to Section 150.20 of the Criminal Procedure Law, 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 Chapter.
3. Every criminal prosecution for an alleged violation of this Chapter shall be conducted in accordance with the required Criminal Procedure Law of the State of New York for the prosecution of a violation as that term is defined in the Penal Law.

B. Penalties.

1. A violation of this Chapter shall be punishable, subject to such election, by either
  - a. a fine prosecuted pursuant to the New York State Penal Law of not less than twenty-five dollars, except that (i) where the person was found to have violated this Chapter or former Chapter 103 within the preceding five years, the fine may not be less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the violation shall be punishable by a fine of not less than one hundred dollars or imprisonment for not more than fifteen days, or both; or

- b. a civil penalty sought in a civil proceeding of not less than twenty-five dollars, except that (i) where the person was found to have violated this Chapter or former Chapter 103 within the preceding five years, the fine may not be less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may not be less than one hundred dollars.
- 2. Each day that a violation continues shall be a separate offense.
- 3. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the Town in any court of competent jurisdiction to compel compliance with, or to restrain by injunction, any violation of this Chapter.
- C. Complaints. Any person who observes a violation of this Chapter or of Section 118 of the Agriculture and Markets Law may notify any enforcement officer of such violation, or may pursuant to Article 100 of the Criminal Procedure Law, execute and file an information with a Justice of the Town Justice Court, charging any person alleged to have committed such violation with such violation. Any Town Dog Control Officer, when notified of an alleged violation as aforesaid, or when such violation occurs in his presence, shall immediately investigate the circumstances thereof and shall, pursuant to the New York State Criminal Procedure Law, execute and file an information with a Justice of the Town Justice Court, charging any person whom he has probable cause to believe has committed a violation of this Chapter with such violation. Any information so filed shall serve as the basis for the prosecution of the person named therein as defendant in accordance with the New York State Criminal Procedure Law.

**§ 103-11. Severability.**

The invalidity of any section or provision of this Chapter shall not invalidate any other section or provision thereof.

**SECTION 4. SEVERABILITY**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of the provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Marbletown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 5. REPEAL**

All ordinances, local laws, and parts thereof inconsistent with this Local Law, are hereby repealed.

**SECTION 6. EFFECTIVE DATE**

This local law shall take effect on January 1, 2011.

