

A Local Law known as Local Law No. 6 of the Year 2010 entitled "Amendment to the Animals Chapter of the Code of the Town of Marilla"

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

SECTION 1. TITLE

This Law shall be known as Local Law No. 6 of the Year 2010 entitled "Amendment to the Animals Chapter of the Code of the Town of Marilla".

SECTION 2. PURPOSE

The purpose of this local law is to amend the provisions of Chapter 163 of the Code of the Town of Marilla entitled Animals to allow the Town of Marilla to better enforce the requirements of the Agriculture and Markets Law of the State of New York and the Code of the Town of Marilla governing dogs including updating licensing fees and dog control provisions and by clarifying restrictions and penalties for violations.

SECTION 3. AMENDMENT OF THE ANIMALS CHAPTER OF THE CODE OF THE TOWN OF MARILLA

Chapter 163 of the Code of the Town of Marilla Article I which was entitled Dog License Fees Law of the Town of Marilla was originally enacted pursuant to Local Law No. 1 of the Year 1979 and Article II entitled Dog Control Law of the Town of Marilla was originally enacted pursuant to Local Law No. 2 of the Year 1985 is amended to read as follows:

ARTICLE I Dog Licensing Law

§ 163-1. Title.

This article shall be known as the "Dog Licensing Law of the Town of Marilla."

§ 163-2. Purpose.

The purpose of this law is to replace the former licensing system that was controlled by the State of New York with a local licensing system.

§ 163-3. Licensing of Dogs:

- A. All dogs in the Town of Marilla must be licensed with the Town Clerk by the age of 4 months and are required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license.

- B. All dog licenses will be paid for a period of one year and will expire at the end of the month one year from the date of issue. Dog licenses are not transferrable.
- C. Fees for Licensing of Dogs:
The fee for a spayed or neutered dog will be \$10.00 (which included the assessment of a \$1.00 surcharge for the purpose of carrying out animal population control) and the fee for an unsprayed or unneutered dog will be \$18.00, (which included the assessment of a \$3.00 surcharge for the purpose of carrying out animal population control) with such fees being reviewed by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.
- D. Grace Period
Any dog harbored within the Town of Marilla 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 provisions of this Section.
- E. Enumeration fee: The Town Board has determined that there is a continual need for dog enumeration and a fee of \$10.00 will be assessed to all dogs found unlicensed within the Town of Marilla at any time. If the same or any other dog owned by the same owner is found to be unlicensed for a second time within a five year period a \$20 fee will be assessed and if the same or any other dog owned by the same owner if found to be unlicensed for a third time within such five year period a \$40 fee will be assessed. If the same or any other dog owned by the same owner is found to be unlicensed more than three times within a five year period, each time the enumeration fee shall double the last fee assessed but shall not exceed \$250.
- F. Purebred License: The Town of Marilla will not be issuing Purebred Licenses. All dogs will be licensed individually as per fee system stated above.
- G. Service Dogs: The Town of Marilla will require a license for every guide dog, service dog, hearing dog, therapy dog and detection dog; however the fee for this license shall be waived. All applicants for licenses for a guide dog, service dog, hearing dog, therapy dog and detection dog shall be required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license
- H. The Town of Marilla 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 or City in which the dog will be harbored for licensing OR to the Town Clerk of the Town of Marilla, where the

Shelter is located for the purchase of the license for adoption purposes.

- I. All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be NO refund of fees.
- J. All fees will be used in funding the administration of the Dogs Law of the Town of Marilla.

ARTICLE II Dog Control

§163-3. Title.

This article shall be known as and may be cited as the "Dog Control Law of the Town of Marilla."

§ 163-4. Definitions.

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

AT LARGE - Any dog that is on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is a guide dog actually leading a blind person, a police work dog in use for police work, or a dog accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or posted land with the permission of the owner of the land or leashed as prescribed by § 163-5.

HARBORER-the person who provides sustenance and shelter for any dog whether or not such person shall be the owner.

OWNER- the person who is recorded in the Town Clerk's office as the applicant for the license for a dog, if such animal shall be licensed, or the person who provides sustenance and shelter for such animal.

§163-5. Restrictions.

A. No person, firm or corporation owning, keeping, harboring or having the care, custody or control of any dog or dogs shall allow or permit any such dog or dogs to be off the premises of such person, firm or corporation (at large) and in the Town of Marilla unless restrained by a chain or leash not exceeding six feet in length. Whenever any dog is found off the premises of the person, firm or corporation owning, keeping, harboring or having the care, custody or control of such dog not controlled or restrained as above provided, it shall be presumed that such person,

firm or corporation permitted or allowed such dog or dogs to be off the premises in violation of this section. This provision shall not apply to a hunting dog in company with a duly licensed hunter who is able to and does control the animal provided the hunting does not take place on any property which is a public park or school property, a guide dog, service dog or working dog who is exempted from licensing fees pursuant to Agriculture and Markets Law § 110, when actually engaged in such service activity.

B. No owner or harbinger of a dog shall permit or allow such dog to engage in habitual loud howling or barking or to conduct itself in such manner as to habitually annoy any person other than its owner or harbinger. Specifically, no dog shall be allowed to bark or howl for a period in excess of 15 consecutive minutes when said barking is audible from beyond the property line of the owner's residence.

C. No person shall deliberately, carelessly or negligently provoke a dog into barking, thereby disturbing the peace and quiet of a neighborhood by annoying the residents thereof.

D. No person, firm or corporation shall own, keep, harbor or have the care, custody or control of any dog not licensed as required by Article 7 of the Agriculture and Markets Law of the State of New York.

E. No owner or harbinger of a dog shall permit or allow such dog to cause damage or destruction to property or to urinate or defecate or to commit any other nuisance upon the premises of a person other than his own.

F. No owner or harbinger of a dog shall allow such dog to habitually chase motor vehicles or bicycles or other conveyances, including pedestrians and joggers.

G. No owner or harbinger of a dog shall fail to have such dog receive the mandatory rabies vaccinations as required pursuant to the provisions of Article 21, Title IV, of the Public Health Law.

H. No owner or harbinger of a dog shall permit more than four or more dogs six months or older to reside on any property unless the property is a licensed kennel or the owner or harbinger has obtained a multi-dog permit. A multi-dog permit is a permit that allows an owner or harbinger to have more than four dogs on the property provided such dogs are not primarily used for breeding purposes and must be neutered or spayed. Prior to approval of a multi-dog permit, a public hearing must be held to determine whether granting a multi-dog permit would be suitable for the property in question. The Town Board shall consider factors such as lot size and proximity to neighbors, among other factors, in determining whether to grant a multi-dog permit. The multi-dog permit fee shall be \$25.00.

§ 163-6. Interference with enforcement officials.

No person shall hinder, resist or oppose any properly designated official or representative of the Town in the performance of his duties under this article.

§ 163-7. Duties of Dog Control Officer; impoundment.

A. It shall be the duty of the Dog Control Officer or any other Town agent or employee designated by the Town Board hereafter to seize or take control of any dog found running at large or unrestrained contrary to the provisions of § 163-5 A and to impound said dog in a suitable place.

B. In the use of any weapon or device for dog control, including, but not limited to, netting, trapping, snaring, tranquilization or firearm use (by a licensed official), the Dog Control Officer shall employ the most humane method possible under the circumstances.

C. The Dog Control Officer, seizing and impounding any dog, shall make a complete registry, entering therein the breed, color, sex and any distinguishing marks of such dog and whether licensed. If licensed, he shall enter the license number and the name and address of the owner.

§ 163-8. Effect of ownership by minor.

In the event that the owner or harborer shall be a minor under the age of 16 years, then the head of the household in which such minor resides shall be deemed to have the care, custody and control of said dog and shall be responsible for any acts in violation of this article.

§ 163-9. Enforcement; right of entry.

A. This article shall be enforced by the Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter. The Dog Control Officer shall have all the powers of a peace officer in enforcing the provisions of this article and the provisions of the Agriculture and Markets Law.

B. The Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter are authorized to sign and issue any complaint, information, affidavit or notice in connection with the prosecution of any violation of this article.

C. The Dog Control Officer and any other Town agent or employee designated by the Town Board hereafter are authorized to enter upon any lands upon which a dog is kept or harbored and to require the display by the person owning or having charge or control of such dog of the license tag for such dog.

D. If an issued summons is disregarded by the person receiving it, the Town Justice may permit the filing of an information and issue a warrant for the arrest of such person.

§ 163-10. Penalties for offenses.

A. Any person, firm or corporation violating any provision of this article shall be guilty of an offense punishable as set forth in § 119 of the Agriculture and Markets Law except that in the case of a violation of § 163-5. G. such person shall also be in violation of Article 21, Title IV of the Public Health Law and the penalties as provided for therein.

B. Any person, firm or corporation taking part in or assisting in any violation of this article shall be subject to the penalties herein.

C. Each day that a violation of this article is committed or is permitted to exist shall constitute a separate offense.

D. Penalties shall be in accordance with the Agriculture and Markets Law and the following maximums: \$250 and/or 15 days' imprisonment for each offense. Any person taking part or assisting in any violation of this article shall also be subject to the penalties herein. The prosecution of a violation of § 163-5 shall be in lieu of a civil action pursuant to the New York State Agriculture and Markets Law § 119.2

E. If a dog seized under the provisions of § 163-5 is not redeemed within 5 business days, the owner shall forfeit all title to such dog and the dog shall be sent to the SPCA, given for adoption, or destroyed by the peace officer or representative of the Commissioner of Agriculture and Markets, and pay any established fines. Anyone who picks up an at-large dog in the Town of Marilla must notify the Dog Control Officer of Marilla (or his assistant) and surrender the dog upon request, before removing the dog from the Town, subject to fine. Adoption fees include veterinarian bills, license fees and maintenance fees of the dog and shall be as set forth in Agriculture and Markets Law § 118, Subdivision 4. There shall be a fee for the euthanasia and disposal of a dog, which shall be in an amount equal to the cost incurred by the Dog Control Officer in providing this service.

F. Optional Civil Penalties for Failure to License a Dog

If Dog Control Officer of the Town discovers that an owner or harborer has an unlicensed dog, the Dog Control Officer shall have to option to proceed as a civil matter and shall notify the owner or harborer that he or she is in violation of the New York State Agriculture and Markets Law § 119.1. (a) and the owner or harborer shall have 30 days to obtain a license. At the time that the normal license fee is paid such owner or harborer and shall pay an additional civil penalty of \$25 for not properly licensing the dog except that where the owner or harborer has violated this section within the preceeding five years the civil penalty shall be \$50 and where the owner or harborer has committed two or more of such violations within the preceding five years the civil penalty shall be \$100. If the owner or harborer shall not obtain a license within said 30 day period, the Dog Control Officer shall commence a criminal proceeding pursuant to the penal law and the owner or harborer shall be subjected to the criminal penalties in addition to the civil penalty as set forth herein.

§ 163-11. Liability of Town officials.

No officer, agent or employee of the Town of Marilla shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent or employee of the Town of Marilla as the result of any act required or permitted in the discharge of

his duties under this article shall be defended by the Town Attorney until the final determination of the proceedings thereon.

SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof of this local law shall for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.