

Local Law #3 of the City of Middletown

ARTICLE I

Dogs

§161-1. License and tag required; seizure and impoundment; disposition.

A. This Section 161-1 is enacted pursuant to the New York Municipal Home Rule Law and the Agriculture and Markets Law to provide for the licensing, identification and control of dogs. Effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing function to local municipalities and will eliminate the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue, which is the purpose of this Section.

B. This Section is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law as amended by Part T of Chapter 59 of the Laws of 2010 and the Municipal Home Rule Law of the State of New York, as the same may be subsequently amended and supplemented.

C. All words, terms or phrases used herein shall have the meanings indicated below or as defined in the Agriculture and Markets Law. If no specific definition is set forth, all words shall have their usual and customary meaning in the English language. Words used in the present tense include the future and the plural includes the singular. The word "shall" is intended to be mandatory.

(1) ANIMAL/DOG CONTROL OFFICER – Any individual appointed by the Chief of Police of the City, the Common Council of the City and/or the Mayor of the City to enforce Article I of Chapter 161 of the Code of the City.

(2) CLERK – The City Clerk, or Deputy City Clerk, of the City, or his or her agent.

(3) DOG – Any member of the species canis familiaris.

(4) HARBOR – To provide food or shelter to any dog.

(5) IDENTIFICATION TAG – A tag issued by the Clerk that sets forth an identification number, as required by the provisions of this Section.

(6) OWNER – Any person who harbors or keeps any dog.

(7) CITY – The City of Middletown, Orange County, New York.

D. Dog licensing requirements, procedures and fees.

(1) License application.

(a) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large or that is residing in a pound or shelter maintained by or under contract or agreement with the state or any county, city, town or village, any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective society.

(b) Application for a dog license shall be made to the Clerk and shall be accompanied by the appropriate license fee, as specified below.

(c) The application shall state the sex, actual or approximate year of birth, breed, color(s), and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and residence of owner, and such other information as deemed necessary by the Clerk.

(d) In the case of a spayed or neutered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided that such certificate shall not be required if the same is already on file with the Clerk.

(e) The application shall be accompanied by a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.

(2) License fees. The fee for a dog license shall be as follows:

(a) Unspayed/unneutered dog: \$23.00 per year (includes state-mandated \$3 surcharge).

(b) Spayed/neutered dog: \$11.00 per year (includes state-mandated \$1 surcharge).

(c) For Puppies under four months: \$10.00

(d) Upon submission of proper documentation, there shall be no fee charged for the license issued for any detection dog, guide dog, hearing dog, police work dog, service dog, therapy dog, war dog or working search dog, as such terms are defined by the Agriculture and Markets Law or by Article I of this Chapter 161.

(e) In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay an additional fee of \$25. Such additional fee shall be used to pay the expenses incurred by the City in conducting the enumeration, if the City conducts such an enumeration. In the event that the additional fees collected exceed the expenses incurred by the City in conducting an enumeration in any year, such excess fees may be used by the City for any other lawful purpose.

(3) Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.

(4) The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.

(5) A license shall be renewed after a period of one year beginning with the first day of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.

(6) No license shall be transferable. 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.

(7) No dog can be adopted out of the City's animal shelter without first obtaining a license from the Clerk.

E. Identification of dogs.

(1) Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent municipal identification number. Such identification number shall be carried by the dog on an identification tag that shall be affixed to a collar on the dog at all times.

(2) The identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

(3) At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee of \$5.00.

(4) No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

(5) The identification tag shall be imprinted with the words "City of Middletown" and "State of New York," a unique identification number, and the telephone number of the Clerk's office.

F. Change of ownership, lost or stolen dogs.

In accordance with the provisions of § 112 of the Agriculture and Markets Law:

(1) In the event of a change in ownership of any dog that has been assigned an identification number or in the address of the owner of record of any such dog, the owner of record shall, within ten (10) days of such change, notify the Clerk.

(2) If any dog that has been assigned a municipal identification number is lost or stolen, the owner of record shall, within ten (10) days of the discovery of such loss or theft, notify the Clerk.

(3) In the case of a dog's death, the owner of record shall so notify the Clerk, either prior to renewal of license or upon the time of such renewal.

G. Seizure and impoundment.

In accordance with §117 of the Agriculture and Markets Law:

(1) The Animal/Dog Control Officer shall seize:

(a) Any dog which is not licensed, whether on or off the owner's premises.

(b) 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

(c) Any dog which poses an immediate threat to the public safety.

(d) Any dog in violation of Article 1 of this Chapter 161.

(2) The Animal/Dog Control Officer, when acting pursuant to his or her special duties, shall 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 municipal identification number of the such dog (if any), the location where seized, the reason for the seizure and the owner's name and address, if known.

(3) Each dog seized in accordance with the provisions of this Section shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

(4) Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this Section and further provided that the owner pays the following impoundment fees:

(a) Not less than \$75.00 for the first impoundment of any dog owned by that person.

(b) Not less than \$100.00 for the second impoundment, within one year of the first impoundment, of any dog owned by that person.

(c) Not less than \$150.00 for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

(d) If, upon redemption, any dog received a rabies vaccination, the charge for such vaccination shall be added to impoundment fees.

(5) If, at the end of the appropriate redemption period, said dog has not been redeemed by its owner, the owner shall forfeit all title to the dog and it shall be available for adoption or be released to an authorized humane society or shelter.

(6) Prior to releasing a dog to its owner or adopting out a dog, the Animal/Dog Control Officer shall deliver to the owner a statement of number of days the dog has been in the shelter and the costs for any veterinary care, which statement the owner shall take to the Clerk to whom all fees due and owing for the shelter and veterinary care shall be paid, together with the impoundment fees and any licensing fees, whereupon the Clerk shall give a receipt to the owner who shall then deliver it to Animal/Dog Control Officer, at which time such dog may be released to owner.

H. Fees can be changed upon Common Council resolution.

Any fees charged under this Chapter 161 of the Code of the City, or any penalties imposed under this Chapter 161, may be changed from time to time by resolution of the Common Council of the City.

SECTION 3. Repeal and replacement of existing Section 161-8 (A) of Chapter 161 of the Code of the City of Middletown.

Section 161-8 (A) of Chapter 161 of the Code of the City of Middletown is hereby amended by repealing the existing Section 161-8 (A) and adding a new Section 161-8 (A), to read in its entirety as follows:

§ 161-8. Penalties for offenses.

A. Except as otherwise provided in Article 7 of the Agriculture and Markets Law, any person violating any provision or provisions of Section 161-1 of Article I of Chapter 161 of the Code of the City shall be deemed to have committed an offense against such Section 161-1, and any violation shall be punishable by a fine not exceeding \$250.00 or by imprisonment for not more than fifteen (15) days, or both fine and imprisonment, for each offense. Any violation which continues beyond one day shall be deemed a separate violation and bear a separate penalty for each separate day, midnight to midnight, in which the violation occurs.

SECTION 4. 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 be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. Such finding of invalidity shall not affect the validity of the remaining portions of this local law.

SECTION 5. Effective date.

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