

LOCAL LAW # 1, 2011

Licensing, Identification & Control of Dogs in the Town of Smithville

Section 1. Title. The title of this Local Law shall be, "Licensing, Identification, and Control of Dogs in the Town of Smithville."

Section 2. Authority. This Local Law is adopted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York.

Section 3. Purpose. The purpose of this Local Law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, and other animals from dog attack and damage.

Section 4. Application.

1. This Local Law shall apply to all areas of the Town of Smithville
2. In the event that any dog owned by a non-resident of the Town of Smithville is harbored within the Town for a period of 30 days or less such dog shall be exempt from the identification and licensing provisions of this Local Law provided such dog is licensed pursuant to the provisions of law in the area of residence.
3. 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 to an animal shelter devoted to the impounding and caring of animals.

Section 5. Definitions. As used in this Local Law, the following words shall mean:

1. "Adoption" as stated in original draft
2. "Altered" shall refer to a dog that has been spayed or neutered.
3. "At large" means an unleashed dog not under control of the owner and off the premises of the owner
4. "Companion animal" means any dog, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Companion animal" shall not include a "domestic animal" as defined in this Section.
5. "Dangerous dog" means any dog which
 - a. without justification attacks a person, companion animal, farm animal, or domestic animal as defined in this section and causes physical injury or death, or
 - b. behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or
 - c. without justification attacks a "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog" and causes physical injury or death.
 - d. "Dangerous dog" does not include a "Police Work Dog", while being used to assist one or more law enforcement officers in the performance of their official duties.
4. "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,

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explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

5. "Dog" means any member of the species *canis familiaris*.
6. "Dog Control Officer" means any individual appointed by the Town to assist in the enforcement of this Local Law or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town to assist in the enforcement of this Local Law.
7. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the New York State Department of Environmental Conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the New York State Department of Environmental Conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this Local law.
8. "Farm animal", as used in this Local Law, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in New York State Environmental Conservation Law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.
9. "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 of New York during the period such dog is being trained or bred for such purpose.
10. "Harbor" means to provide food or shelter to any dog.
11. "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 of New York during the period such dog is being trained or bred for such purpose.
12. "Identification tag" means a tag issued by the Town of Smithville or other 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.
13. "Identified dog" means any dog carrying an identification tag.
14. "Municipality" means any county, town, city or village.
15. "New York State Agriculture and Markets Law" means the Agriculture and Markets Law of the State of New York in effect as of the effective date of January 1, 2011 and as amended thereafter.
16. "Owner" means any person who harbors or keeps any dog. If a dog is not licensed, the term of "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 animal which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this Local Law shall be held and deemed to be the

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owner of such dog for the purpose of this Local Law. In the event any dog found to be in violation of this Local Law shall be owned by a minor (under 18 years of age), the 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 said dog and violation of this Local Law.

17. "Owner of record" means the person purchasing the license or in whose name any dog was last licensed. An owner of record shall be 18 years of age or older.
18. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.
19. "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.
20. "Purebred Dog" means a dog registered by a nationally recognized registry association.
21. "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 of Agriculture.
22. "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.
23. "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.
24. "Town" means the area within the corporate limits of the Town of Smithville.
25. "Town Board" means the Town of Smithville Board.
26. "Town Clerk" means the Smithville Town Clerk.
27. "Unaltered" shall refer to any dog that is not spayed or neutered.
28. "War dog" means any dog which has been honorably discharged from the United States armed services.
29. "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose.

Section 6. Licensing.

1. Application for Original License.

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- a. The owner of any dog reaching the age of four months shall immediately make application to the Town Clerk for a dog license on a form provided by the Town Clerk's Office. No license shall be required for any dog which is under the age of four months and which is not at large, or any dog that is residing in a pound or shelter maintained by or under contract or agreement with the State of New York or any county, city, town or village, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective association.
 - b. In the case of an unlicensed dog being redeemed by the owner or a dog being adopted from a shelter or pound the Town Clerk and the manager of the facility shall establish a licensing guideline procedure that is agreeable and beneficial to both the Town of Smithville and the shelter or pound.
- 2. Rabies Vaccination Required.** All applications for a dog license shall be accompanied by a valid rabies certificate signed by a licensed veterinarian or, in lieu thereof, a statement certified by a licensed veterinarian stating that the dog is too young to be vaccinated or because of old age or another reason, the life of the dog would be endangered by the administration of vaccine. A copy of the rabies certificate or certified statement shall be made and attached to the Clerk's copy of the application. In the case of an unlicensed dog being redeemed by the owner or a dog being adopted from a shelter copies shall be forwarded to the Town Clerk. Such records shall be kept on file by the Town Clerk and be made available upon request for rabies and other animal disease control efforts.
- 3. Spay/Neuter Certificates.** In the case of a spayed or neutered dog, every application shall 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. 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 Part 7 of this Section.
- 4. License.** Upon receiving a complete application, the required documents and the fee, the Town Clerk shall issue a license and tag. The Town Clerk's copy shall be kept on file in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration.
- 5. Expiration of License.** An original license shall be issued for a period of one year, and shall expire on the last day of the month one year from the date of issue.
- 6. License Renewal.**
- a. License renewal forms shall be mailed by the Town Clerk.
 - b. A new rabies certificate shall be required if the one on record has expired or will expire within 30 days of the date of renewal. An in-lieu-of statement as described in Part 2 of this Section may be substituted for a rabies certificate. New rabies certificates and statements shall be copied and attached to the Town Clerk's copy of the renewal.
 - c. A spay/neuter certificate shall not be required if one is already on file with the Town Clerk. In a case where the dog has been altered during the preceding year, the certificate shall be presented to the Town Clerk in order to receive the

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reduced fee for an altered dog. The Town Clerk shall make a copy of the certificate and attach it to the original license on file.

- d. The renewal shall expire on the last day of the month in the same month that it was originally issued. (i.e., a license originally issued in January will always expire in January.)
- e. Renewing early or late, does not change the renewal month. However, owners having more than one dog may request common renewal dates for their licenses, which may be granted at the discretion of the Town Clerk, provided that all other licensing and renewal requirements are met. No licensing fees will be prorated, refunded, or waived when accommodating such a request.
- f. Upon renewal the Town Clerk shall provide a validated license to the owner. The Clerk's copy shall be kept on file in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration.

7. License Fees.

- a. Pursuant to this Local Law, the Town Board of the Town of Smithville is authorized to establish by resolution, a schedule of fees pertaining to the licensing, identification and enumeration of dogs. The Town Board may amend the fee schedule by resolution from time to time as it deems appropriate. The most current fee schedule will be kept on file in the office of the Smithville Town Clerk for public inspection.
- b. All applications for original licenses or renewals shall be accompanied by a fee established by resolution of the Smithville Town Board.
- c. All revenue derived from such fees shall be the sole property of the Town of Smithville and shall be used only for controlling dogs and enforcing this Local Law and Article 7 of New York State Agriculture and Markets Law. Said revenue may also be used to subsidize the spaying or neutering of dogs, to subsidize any facility as authorized under Article 7 of New York State Agriculture and Markets Law, and to subsidize public humane education programs related to responsible dog ownership.
- d. In no event shall any money derived from license fees be used to subsidize the spaying or neutering of cats or animals other than dogs.
- e. No license fees are refundable or partially refundable in the event that a dog is lost, stolen, sold, given away, surrendered or deceased before the expiration of the license.
- f. An additional fee may be established by resolution of the Smithville Town Board should a dog be identified as unlicensed during an enumeration. Such additional fee shall be the property of the Town of Smithville and shall be used to pay the expenses incurred while conducting the enumeration. In the event the additional fees collected exceed the expenses incurred, such excess fees may be used for enforcing this Local Law and for spaying or neutering dogs.
- g. In addition to the fees set by the Town Board, an additional New York State Spay/Neuter Surcharge shall be assessed for the purpose of carrying out population control efforts as mandated by Article 7 of New York State Agriculture and Markets Law. Money derived from such additional assessment may be used

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to subsidize the spaying and neutering of cats as well as dogs pursuant to Article 7 of New York State Agriculture and Markets Law.

- 8. Exemptions to License Fees.** Licenses for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog shall be exempt from license fees. 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. Pursuant to Article 7 of New York State Agriculture and Markets Law, said dogs are not exempt from the mandated population control fee.
- 9. Identification of dogs.**
- a. When a dog is originally licensed, a Town of Smithville identification number will assigned and an identification tag shall be issued, which shall be worn by the dog at all times.
 - b. Existing New York State Agriculture and Markets dog licenses being renewed or transferred in from another municipality shall be assigned a Town of Smithville identification number and an identification tag shall be issued. The New York State Agriculture and Markets tag or other municipality's tag shall be discarded and the Town of Smithville tag shall be worn by the dog at all times.
 - c. A dog participating in a dog show is exempted from wearing an identification tag only for the duration of the show.
 - d. No identification tag shall be affixed to the collar of any dog other than the dog to which it was assigned.
 - e. Any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog shall be issued a Town of Smithville identification tag and a Chenango County Working Dog tag. Both tags shall be worn by the dog at all times.
 - f. Lost tags shall be replaced at the expense of the owner at a fee set by the Smithville Town Board.
- 10. Change of Address.** When there is a change of address for the owner of record, the owner shall notify the Town Clerk's Office of such change. If the change is still within the Town of Smithville, the Town Clerk will make the appropriate updates to the dog license record. If the change is located outside the Town of Smithville, the Town Clerk shall make a note in the record and cancel the license. The Clerk shall forward a copy of the license to the Clerk of the municipality to which the owner has moved, informing said Clerk that the dog now resides in their municipality.
- 11. Change of Ownership.** In the event of a change in the ownership of any dog licensed in the Town of Smithville, the new owner shall immediately make application for a license for such dog. Additionally, the original owner of record shall notify the Town Clerk's Office of the change of ownership. Such original owner of record shall be liable for any violation under this Local Law until such filing is made or until the dog is licensed in the name of the new owner.
- 12. Lost, Stolen or Deceased Dog.** If any dog which has been licensed in the Town of Smithville is lost, stolen or deceased, the owner of record shall notify the Town Clerk's

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Office within ten days of the discovery of such loss, theft or death.

13. Lists of Licensed Dog Owners. No dog licensing records, information, or lists shall be made available to any person or company for commercial purposes.

14. Purebred Licenses.

a. The Town of Smithville will not be issuing Purebred or Kennel licenses. All dogs will be licensed individually as per fee set by Resolution by the Smithville Town Board.

Section 7. Prohibited Acts. It shall be unlawful for any owner of a dog to permit or allow such dog to:

1. Run at large.
2. When in the area of the Town of Smithville, be off the owner's property unless restrained by an adequate collar and leash except when it is accompanied by its owner or a responsible person able to control it by command.
3. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually annoy and/or disturb any person other than the owner of such dog.
4. Cause damage or destruction to property or defecate, urinate, dig or otherwise commit a nuisance other than on the property of the owner of such dog.
5. Chase, jump upon or at, or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
6. Chase, run alongside of, bark at or otherwise harasses any motor vehicle, motorcycle, bicycle, carriage or any other vehicle or device used by persons for travel or any riders or occupants thereof while said vehicle or device is on a public highway or private property other than property of the owner of said dog. For purposes of this section, a horse or other animal shall be considered a vehicle or device.
7. Fail to license any dog at the age of four (4) months or older, or allow any dog to be unlicensed due to failure to renew a dog license.
8. Fail to have any dog identified by a valid and current Town of Smithville dog license identification tag.
9. Knowingly affix to any dog any false or improper identification tag or any identification tag belonging to another dog.
10. Fail to confine, restrain or present such dog for any lawful purpose pursuant to this Local Law or Article 7 of New York State Agriculture and Markets Law.
11. Furnish any false or misleading information on any license or form, required by the Town, the Smithville Dog Control Officer, or any shelter or pound servicing the Town of Smithville.
12. Fail to notify the Town Clerk of any change of ownership, change of address, death or loss of any dog licensed in the Town of Smithville.

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Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the owner of such dog that he/she has failed to properly confine, leash or control his/her dog.

Section 8. Removal of Feces.

1. Any owner who allows a dog to defecate on any public or private property, other than the property of the owner, shall immediately clean up the feces, place it in a plastic container or bag, and deposit it in a container used for the disposal of refuse.

Section 9. Conditions for Keeping Dogs.

All premises occupied by dogs shall be kept in a clean, sanitary condition. Adequate food, water, shelter and space must be provided for each dog owned. For the purpose of this Section, "adequate" shall mean sufficient for age, size and number of dogs on the premises.

Section 10. Liability of Owner.

1. If a domestic, farm or companion animal is injured or killed as a result of being attacked, chased or worried by any dog, the owner of said dog shall be liable for damage. The owner of such injured or killed animal may make a complaint to the Dog Control Officer or a police officer who shall proceed pursuant to the Dangerous Dog Section of Article 7 of New York State Agriculture and Markets Law.
2. In no event shall the Town of Smithville or the County of Chenango be held liable for any damage done by any dog.

Section 11. Dangerous Dogs.

1. The determination of a Dangerous Dog and the prosecution of the owner of such a dog shall be pursuant to Article 7 of New York State Agriculture and Markets Law.
2. In the event that a dog is determined by the Smithville Town Court to be a dangerous dog, the Court shall give notice to the Town Clerk of such determination and note will be made in the dog's record. Additionally, the Town Clerk shall notify law enforcement and emergency services.

Section 12. Enforcement/Appearance Ticket.

Any Dog Control Officer or other person or persons, who are or may be lawfully authorized by the Town or any other peace officer, may, administer and enforce the provisions of this Local Law, and for such purpose shall have the authority to issue appearance tickets.

Section 13. Seizure, Impoundment, Redemption and Adoption.

1. Any dog belonging to a person found in violation of any of the provisions of this Local Law may be seized pursuant to the provisions of New York State Agriculture and Markets Law.
2. Any dog believed to be dangerous and which poses an immediate threat to the public safety may be seized.
3. Any dog may be seized, which has been judged to be a Dangerous Dog pursuant to New York State Agriculture and Markets Law and whose owner has failed to obey a court order pertaining to said Dangerous Dog.

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4. Every dog impounded shall be properly cared for, sheltered, fed and watered.
5. Any dog which is seized will be taken to the Chenango County SPCA where it will be held pending redemption by its rightful owner, adopted or euthanized.
6. Seized dogs may be redeemed by producing proof of licensing and identification and by paying:
 - a. \$30.00 for the first 24 hours or part thereof, plus \$10.00 per additional day for food, shelter and care, for the first impoundment of any dog owned by a person.
 - b. \$40.00 for the first 24 hours or part thereof, plus \$10.00 per additional day for food, shelter and care, for the second impoundment within one year of the first impoundment of any dog belonging to that person.
 - c. \$50.00 for the first 24 hours or part thereof, plus \$10.00 per additional day for food, shelter and care, for the third impoundment within one year of the first impoundment of any dog belonging to that person.
7. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees required by Part 6 of this Section.
8. The seizure of any dog shall not relieve any person from any violation of this Local Law or New York State Agriculture and Markets Law.

Section 14. Complaint.

1. Any Town-designated Dog Control Officer or Agency having reasonable cause to believe that a violation of this Local Law has been committed in his/her presence shall, and any Village Police Officer or other peace officer may, issue and serve upon such person an appearance ticket for such violation.
2. Any person who observes a dog in violation of this Local Law may file a complaint, under oath, with a Town-designated Dog Control Officer or Agency specifying the nature of the violation, the date thereof, and a description of the dog, the location of the violation and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this Local Law.
3. Upon receipt by the Town-designated Dog Control Officer or Agency of any such complaint, that Officer or Agency shall issue an appearance ticket to the alleged owner of the dog to appear before the Smithville Town Court at a date and time specified.

Section 15. Violations and Penalties.

1. A plea or conviction of a violation of this Local Law shall be prosecuted pursuant to penal law, by a fine of not less than twenty-five dollars (\$25), except:
2. Where a person is found to have violated this Local Law or any prior Town of Smithville Dog Law within the preceding five years, the fine may be not less than fifty dollars (\$50) and
3. Where the person is found to have violated this Local Law or any prior Town of Smithville Dog Law two or more times within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars (\$100) or imprisonment for not more than fifteen (15) days, or both.

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4. For the purpose of conferring jurisdiction upon courts and judicial officers generally, offenses of this Local Law shall be deemed violations and for such purposes only all provisions of law relating to violations shall apply.

Section 16. Additional Penalties.

1. Pursuant to Article 7 of New York State Agriculture and Markets Law, 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, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to \$200.00 for the first violation and up to \$400.00 for each subsequent violation.
2. Pursuant to Article 7 of New York State Agriculture and Markets Law, any person who for the purpose of participating in the animal population control program shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure pursuant to this Local Law and/or Section 117 of New York State Agriculture and Markets Law, and any veterinarian who shall furnish false information concerning animal sterilization fees shall be guilty of a violation prosecuted pursuant to the New York State Penal Law punishable by a fine of not less than \$250.00.

Section 17. Disposition of Fines.

Notwithstanding any other provision of law, all moneys collected as fines or penalties by the Town of Smithville as a result of any prosecution for violations of the provisions of this Local Law or Article 7 of New York State Agriculture and Markets Law and all bail forfeitures by persons charged with such violations shall be the property of the Town of Smithville and shall be paid to the Town Supervisor. Such moneys shall be used only for controlling dogs and enforcing this Local Law. Said revenue may also be used to subsidize the spaying or neutering of dogs, any facility as authorized under Article 7 of New York State Agriculture and Markets Law, and subsidizing public humane education programs in responsible dog ownership.

Section 18. Nonliability.

No action shall be maintained against the Town of Smithville, the Smithville Dog Control Officer, or any person or persons lawfully authorized by the Town when performing duties pursuant to this Local Law or New York State Agriculture and Markets Law to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law or New York State Agriculture and Markets Law.

Section 19. Separability

If any section, paragraph, subdivision, clause, phrase or provision of this Local Law shall be judged invalid or held unconstitutional, it shall not affect the validity of the Local Law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

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Section 20. Repealer.

This Local Law shall supersede all prior Local Laws, ordinances, rules and regulations relative to the control, licensing and fee schedules of dogs within the Town and they shall be, upon the effective date of this Local Law, null and void.

Section 21. Effective Date.

This Local Law shall take effect the 18th day of January 2011.