

LOCAL LAW NO. 1 OF THE YEAR 2013

**RE: A LOCAL LAW FOR DOG LICENSING AND CONTROL
LAW OF THE TOWN OF MIDDLETOWN, COUNTY OF DELAWARE
REPLACING LOCAL LAW NO. 1 OF 2010**

BE IT ENACTED by the Town Board of the Town of Middletown as follows:

SECTION I. TITLE: The title of this Law shall be Dog Licensing and Control Law of the Town of Middletown, County of Delaware.

SECTION II. AUTHORITY: This Local Law is enacted pursuant to the provisions of (Chapter 59; Part T of the Laws of 2010) Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

SECTION III. PURPOSE: The Town Board of the Town of Middletown, County of Delaware hereby finds and declares that the purpose of this local law is to provide for the licensing and identification of dogs.

SECTION IV. DEFINITIONS: All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York.

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

AG AND MARKETS LAW - The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Chapter, as amended by this Chapter, and as thereafter amended.

IDENTIFICATION TAG - a tag issued by the Town Clerk that sets forth the identification number of the dog wearing the Identification Tag, together with the name of the issuing Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

OWNER - means any person who harbors or keeps any dog or other animal.

OWNER OF RECORD - means the person in whose name a dog was last licensed pursuant to this chapter.

PERSON - A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

RESIDENT - An individual who maintains a residence within the Town of Middletown, County of Delaware, State of New York.

TOWN - means the Town of Middletown, County of Delaware, State of New York

RUN AT LARGE - means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.

SECTION V. LICENSING OF DOGS: No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Ag and Markets Law and laws of the Town.

All dogs within the Town that are four (4) months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.

The Owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town.

SECTION VI. LICENSES ISSUED BY ANIMAL SHELTERS AND POUNDS NOT ALLOWED: The Town does not allow the licensing of dogs by a shelter. The shelter MUST send the adoptive dog Owner to the Town Clerk of the Town in which the dog will be harbored for licensing.

SECTION VII. LICENSING GRACE PERIOD FOR DOGS LICENSED IN NEW YORK CITY OR OUTSIDE NEW YORK STATE: Any dog harbored within the Town which is owned by a resident of New York City or 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. At the expiration of such thirty (30) day period, if the dog continues to be harbored in the Town, the dog(s) must be licensed or the owners shall otherwise be subject to the penalty provisions of this law unless the owners can prove an exemption otherwise set forth in this law or prove that the permanent residence/domicile of the owner and dog(s) remains outside of the Town and that such dog(s) remain properly licensed elsewhere as required.

SECTION VIII. PROOF OF VACCINATION AGAINST RABIES: Each license application shall be accompanied by 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.

SECTION IX. TERM OF LICENSE AND RENEWALS: Each license issued pursuant to this local law, 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.

SECTION X. FEES:

(A) Fees are set forth in Schedule “A” attached and may be amended by Resolution of the Town Board. The New York State Mandated Animal Population Control Surcharge is also elucidated in Schedule “A”.

(B) Fee Exemptions:

There shall be no fee for any license issued for the following:
“guide dog” (as defined in article 7 of the Ag and Markets Law),
“hearing dog” (as defined in article 7 of the Ag and Markets Law),
“service dog” (as defined in article 7 of the Ag and Markets Law),
“war dog” (as defined in article 7 of the Ag and Markets Law),
“working search dog” (as defined in article 7 of the Ag and Markets Law),
“detection dog” (as defined in article 7 of the Ag and Markets Law),
“police work dog” (as defined in article 7 of the Ag and Markets Law),
“therapy dog” (as defined in article 7 of the Ag and Markets Law).

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 clerk.

SECTION XI. ISSUANCE OF LICENSE; IDENTIFICATION TAG:

(A) Upon validation by the Town Clerk of the Town, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk of the Town. Such record shall be made available upon request to the State Commissioner of Ag and Markets, or successor thereof.

(B) No 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.

(C) Change of Ownership, Lost or Stolen Dogs:

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.

In the event of a change in 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 of such change.

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.

In the case of a dog's death, the Owner of Record shall so notify the Town Clerk either prior to renewal of license or upon the time of such renewal.

(D) Identification Tag:

The Town Clerk shall assign a Town permanent official identification number to a 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.

An Identification Tag is not required to be worn while the dog is participating in a dog show.

The official permanent 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.

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.

At the time a dog is first licensed, one Identification Tag shall be furnished to the Owner of Record at no additional charge. Any replacement tag shall be obtained by the Owner at the Owner's expense.

(E) Dog Enumeration:

The Town Board may, from time to time, authorize by resolution the Animal Control Officer to conduct a town-wide dog enumeration. The purpose of such town-wide sweep shall be to locate any and all unlicensed dogs and compel the proper vaccination and licensing of such previously unlicensed dogs. The Animal Control Officer shall be required to visit all residences in the Town to verify if there any dogs harbored in such residences, whether or not such dogs are licensed, and require owners of unlicensed dogs to properly license these animals. Failure to license dogs as a result of a dog enumeration shall result in fines and penalties as set forth herein.

SECTION XII. PUREBRED DOG LICENSE AND FEE: There will not be distinct purebred licenses as previously provided for by the State. Any and all existing purebred licenses will now be required to comply with this local law.

SECTION XIII. PENALTIES: Any person convicted of a violation of this Local Law shall be liable for a civil penalty of Twenty-five Dollars (\$25.00) for a first violation; Fifty Dollars (\$50.00) for a second violation, and Seventy-Five Dollars (\$75.00) for each subsequent violation.

SECTION XIV. REPEAL OF INCONSISTENT LOCAL LAWS OR ORDINANCES:

This Local Law shall supersede all prior inconsistent Local Laws, Ordinances, Rules and Regulations relative to the licensing of dogs within the Town. All prior inconsistent Local Laws, Ordinances, Rules and Regulations shall be, upon the effectiveness of this Local Law, null and void. Local Law #1 of 2010 is specifically repealed.

SECTION XV. SEVERABILITY CLAUSE: The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

SECTION XVI. EFFECTIVE DATE: This local law shall take effect immediately after filing with the Secretary of State.

BE IT ENACTED this 9th day of April, 2013 by the Town Board of the Town of Middletown, Delaware County, New York.

_____Aye/Nay
MARJORIE MILLER, SUPERVISOR

_____Aye/Nay
MICHAEL FINBERG

_____Aye/Nay
BRIAN SWEENEY

_____Aye/Nay
JACOB ROSA

_____Aye/Nay
JOHN ROUCEK

(Seal)

ATTEST:

Patricia F. Kelly
Town Clerk

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2013 of the Town of Middletown was duly passed by the Town Board on April 9th, 2013, 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 therefrom and of the whole of such original local as duly adopted.

Dated: April 9th, 2013

Patricia F. Kelly
Town Clerk

(Seal)

STATE OF NEW YORK
COUNTY OF DELAWARE

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.

John R. Fairbairn III, Esq.
Attorney for the Town
Town of Middletown

SCHEDULE "A"

FEES:

- (1) Individual Dog License Fee:
 - \$4.00 for a spayed or neutered dog
 - \$10.00 for an unspayed or unneutered dog

However, for dog licenses not renewed prior to the license expiration date but prior to the sixtieth (60th) day after such expiration, the fees shall include a \$2.00 late fee for each license issued. For dog licenses not renewed more than sixty (60) days beyond the expiration date, there shall be a \$4.00 late fee for each license issued.

- (2) State Mandated Animal Population Control Surcharge:

Each individual dog license for a spayed or neutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$1.00 payable at the time the dog license application is filed.

Each individual dog license for an un-spayed or unneutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$3.00 payable at the time the dog license application is filed.

- (3) 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 of the application is filed to license said dog.

- (4) Replacement Tag Fee:

A replacement tag fee of \$3.00 shall be charged to offset the costs associated with the provision and replacement of Identification Tags.