

TOWN OF GILBOA
LOCAL LAW NO. 1 – 2010

LICENSING, IDENTIFICATION AND CONTROL OF DOGS

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

Section 1. Title: This Local Law shall be known as Licensing, Identification and Control of Dogs.

Section 2. 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, domestic animals and deer from dog attack and damage.

Section 3 Licensing: All dogs within the Town of Gilboa four (4) months of age or older, unless otherwise exempted shall be licensed. The owner of each dog required to be licensed shall obtain, complete and return to the Gilboa Town Clerk 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 of Gilboa. 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. Each license issued shall be valid for a period of one year and shall not be transferrable.

Section 4. Exception to Licensing: Any dog harbored within the Town of Gilboa 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.

Section 5. Identification Tags: That "Town of Gilboa", a reference to the "State of New York" and municipality contact information, including a telephone number, shall be on the Town's identification tag.

Section 6. Dogs held at a shelter: That dogs of any age which are held at a shelter pursuant to a contract or agreement with any county, city, town, village or duly incorporated society for the prevention of cruelty to animals, humane society or dog protective association do not have to be licensed. The Town of Gilboa does not allow the licensing of dogs by a shelter. The Shelter must send any Town of Gilboa adoptive dog owners to the Town Clerk for licensing prior to adoption.

Section 7. Refunds: A refund of a dog license fee shall not be permitted.

Section 8. License Fees: The Town of Gilboa hereby establishes the fee for a dog license issued pursuant to this Local Law for an unsprayed or unneutered dog at ten dollars (\$10.00) and for a spayed or neutered dog at five dollars (\$5.00). These fees may be reviewed and changed periodically by a motion of the Town Board.

Section 9. Exception to all License Fees: Excepted from payment of all license fees are applications submitted for a dog license for any guide, hearing, service, war, working search, detection, police and therapy dogs.

Section 10. New York State Surcharge: In addition to the license fee established by this Local Law, each applicant for a dog license shall pay a surcharge of one dollar (\$1.00) if the dog to be licensed is altered, or a fee of three dollars (\$3.00) if the dog sought to be licensed is unaltered. This surcharge shall be remitted to the Department of Agriculture and Markets for the population control fund.

Section 11. Exception from Identification Requirements: A dog participating in a dog show shall be exempt from the identification requirement of this Local Law during such participation.

Section 12. Definitions: As used in this Local Law, the following terms shall have the meaning indicated:

- (A) Dog Control Officer — The person authorized by the Town Board to enforce the provisions of this Local Law. A “Dog Control Officer” shall have all the power of a constable or a peace officer in the execution of the provisions of this Local Law, including service of a summons, the service of an appearance ticket, and the service and execution of any other order or process.
- (B) Owner — Any person who is a licensed owner of a dog or any person who keeps, feeds, or harbors a dog for over one (1) week. The “Owner” need not be a resident of the Town limits of the Town of Gilboa.

Section 13. Restrictions: It shall be unlawful for any owner or any person harboring any dog to permit or allow such dog while in the Town of Gilboa to:

- (A) Engage in Nuisance Barking -The owning, possessing or harboring of any dog which frequently or continuously creates excessive noise across a residential or commercial real property line which habitually annoy(s) any person other than the owner or person harboring such dog. For the purpose of this section, barking dogs shall include a dog that barks, bays, cries, howls or makes any other noise continuously for a period of ten minutes, or intermittently for one-half hour or more which causes the disturbance of any person other than the owner at any time of day or night regardless of whether the dog is physically situated in or upon private property.

- (B) Cause damage or destruction to property or commit a nuisance which includes leaving solid waste deposits and allowing a dog to urinate on plants, shrubs, lawns, trees, ornaments or furniture or other outside decorations, upon the premises of a person other than the owner or person harboring such dog.
- (C) Chase or otherwise harass any person in such manner as reasonably to cause intimidation or to put such person in apprehension of fear of bodily harm or injury.
- (D) Habitually chase or bark at bicycles, motorcycles and motor vehicles.
- (E) Remain in the Town unless licensed in accordance with this Local Law.
- (F) To run at large unsupervised, away from the premises of the owner. Any dog shall be kept confined or on a leash no longer than eight (8) feet, except when on the owner's property or on private property of another person with the knowledge and consent of such person.

Section 14. Restraints: The owner of any dog which is within the limits of the Town shall not permit his dog to bark, chew, cry or be vicious, to defecate in such a way as to cause annoyance to the residents of the Town or damage their property. Further said owner of a dog shall not allow that dog to tip over trash cans or other devices used to contain refuse or spread such refuse contained within such receptacle.

Section 15. Care:

- (A) No owner shall permit the premises or enclosures in which the dog is kept to be unsanitary or unclean as determined by a licensed veterinarian summoned by the dog control officer.
- (B) A person who having impounded or confined any dog, refuses or neglects to supply to such dog during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor,

punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any dog shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such dog shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him from the owner of such dog. The owner of said dog shall not be exempt from levy and sale upon execution issued upon a judgment therefore as specified in Article 26, Section 356 of the Agriculture and Markets Law.

- (C) Dog injuries must be cared for and kept clean and dry. Severe injuries must receive treatment by a licensed veterinarian within twenty-four (24) hours after learning that such injuries exist. If the owner refuses to take the dog to a veterinarian, the Dog Control Officer may seize the dog and take it for treatment and such treatment will be billed to the owner.

Section 16. Enforcement: This Local Law shall be enforced by the Town Dog Control Officer (DCO).

Section 17. Seizure, Impoundment, Redemption and Adoption:

- (A) Any dog found in violation of the provisions of this Local Law may be seized.
- (B) Every dog seized shall be properly cared for, sheltered, fed and watered for the appropriate redemption period.

- (C) The owner of any dog impounded by the Town of Gilboa shall be entitled to redeem that dog within five (5) business days, excluding the day the dog is impounded, from the day the dog is impounded, provided that the owner produces proof the dog is licensed and identified and pays a fee of ten dollars (\$10.00) for the first impoundment; a fee of twenty dollars (\$20.00) for the second impoundment and a fee of three dollars (\$3.00) for each additional twenty-four hour period; a fee of thirty dollars (\$30.00) for a third and each subsequent impoundment and a fee of three dollars (\$3.00) for each additional twenty four hour period. In addition to said impoundment fees, all costs associated with impounding the dog, including medical costs and any fees charged to the Town for impoundment or euthanasia by a shelter, shall be paid by the owner.
- (D) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (C) of this section whether or not such owner chooses to redeem the dog.
- (E) Any dog unredeemed at the expiration of the redemption period Shall be made available for adoption or euthanized.

Section 18. Complaint: Any person who observes a dog in violation of this Local Law may file a written complaint with the Town Dog Control Officer, specifying the nature of the violation, the date thereof, a description of the dog 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. The dog Control Officer observing a violation of this Local Law in his presence shall issue and serve an appearance ticket for such violation.

Section 19. Penalties:

(A) Any person convicted of a violation of this Local Law shall be deemed to have committed a petty offense and shall be subject to a civil penalty for a first offense of not more than twenty-five dollars (\$25.00); a fine of not more than fifty dollars (\$50.00) for a second offense within the proceeding five years; a fine for not more than one hundred dollars (\$100.00) for a third or more offense within the preceding five years or imprisonment for a period not exceeding 15 days.

(B) In addition to the above penalties, the Court may order seizure of the dog and forfeiture of title for either adoption or destruction and the court may order the owner to do any or all the following as a means of remedy:

Possible orders of the court regarding nuisance dog complaints:

- 1) Dog is to be confined to an outside enclosure made of heavy gage wire with the approximate minimum dimensions in feet (6H X 8W X 10L), during the period of one hour after sunrise and until sunset. While confined the dog is not to bark, whine, cry, or "carry on" in such a manner as to disturb the neighbors, since such a disturbance would not provide a satisfactory solution to the problem.
- 2) Dog is to be confined via a commercially available collar and underground fence perimeter, which safely "shocks" the dog when it comes to close to the perimeter, during the period of one hour after sunrise and until sunset. While confined the dog is not to bark, whine, cry, or "carry on" in such a manner as to disturb the neighbors, since such a disturbance would not provide a satisfactory solution to the problem.

- 3) Dog is to be securely confined in a out-building between sunset and one hour after sunrise provided the dog does not bark, whine, cry, or "carry on" in such a manner as to disturb the neighbors, since such a disturbance would not provide a satisfactory solution to the problem. A dog shall not be deemed to be in violation of such order if accompanied by and under full control of the owner during such period.
- 4) Dog is to be brought inside owner's home and securely confined between sunset and one hour after sunrise if the dog barks, whines, cries or "carries-on" in such a manner as to disturb the neighbors. A dog shall not be deemed to be in violation of such order if accompanied by and under full control of the owner during such period.
- 5) Install a muzzle over the dog's mouth such that the dog cannot bark (or bite/nip). Such muzzle may also be necessary while the dog is on the owner's property in a confined area if it persists on barking, whining, crying, or "carrying on" in such a manner as to disturb the neighbors.
- 6) Provide a run line of minimum length of twenty feet with a "leash type" attachment no longer than 8 ft. in length. Such run line is to be totally on the owner's property and have no direct view of a highway, roadway, or sidewalk or any other such view which might cause the dog to bark due to activity taking place in the normal course of daily activity.
- 7) Adoption of dog as the outcome of numerous unsuccessful attempts to remedy the problem situation with the neighbors, either

through the fault of the owner or because the dog is unable to adapt to conditions mandated by the situation at hand. Should the court mandate this rather extreme mandate it is recommended that the dog be taken for adoption but actually not placed in an adoptive home for at least 30 days pending the possibility of an appeal.

- 8) Court may consider an application to vacate its judgment — for example if the dog is put up for adoption by its owner and proof is presented supporting the same.

If the particular remedy is not performed within the time period specified by the court, a hearing will be held which would allow the court to order the seizure of the dog and forfeiture of title.

Section 20. Severability:

If any part of this Local Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

Section 21. Repealer:

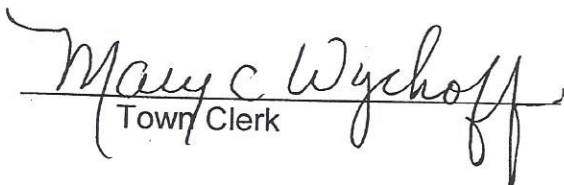
This Local Law shall supersede and repeal all prior local laws, ordinances, rules and regulations relating to the licensing and control of dogs within the Town of Gilboa.

Section 22. Effective Date:

This Local Law shall become effective upon filing with the New York State Secretary of State's Office.

Enacted: Dec. 6, 2010, by the Town Board of the Town of Gilboa.

(SEAL)


Town Clerk