

Chapter 95

DOGS

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[HISTORY: Adopted by the Town Board of the Town of Westmoreland 11-8-2010 by L.L. No. 3-2010. Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 127.

Zoning — See Ch. 180.

§ 95-1. Purpose.

The purpose of this chapter shall be to protect the health, safety, morals and general welfare of the inhabitants, visitors, and property of the Town of Westmoreland from dog-related nuisance, damage, or injury, though the specification, establishment, and imposition of certain restrictions, regulations, responsibilities, and requirements, to wit:

- A. The licensing and identification of dogs;
- B. The control and protection of the dog population;
- C. The control and protection of persons, property, domestic animals and deer from dog attack and damage; and
- D. Penalties for violations of this chapter.

§ 95-2. Title.

This chapter shall be known as the "Dog Licensing and Control Law of the Town of Westmoreland."

§ 95-3. Statutory authority.

This chapter is enacted pursuant to New York State Agriculture and Markets Law Article 7 and the Laws of New York of 2010, Chapter 59, Part T.

§ 95-4. Definitions.

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

DANGEROUS DOG — A dog that harasses, chases, molests, bites, exhibits aggression towards, or constitutes a physical threat or reasonably perceived physical threat toward a person or other domestic animal while not on the property of its owner or guardian.

DOG — Any member of the species *canis familiaris*, regardless of age, breed, gender, or licensure status (licensed or unlicensed).

DOG CONTROL OFFICER — Any individual appointed by a municipality to assist in the enforcement of this chapter, or any authorized officer, agent or employee of an incorporated humane society or other incorporated dog protective association under contract with the municipality to assist with the enforcement of this chapter.

OWNER — Includes any person who owns, keeps or harbors, or has the care, custody or control of a dog. The dogs owned by minors shall be deemed to be in the custody of and control of the minor's parent(s), legal guardian(s), or other head(s) of household where the minor resides.

- B. Definitions not contained herein shall be as set forth in the New York Agriculture and Markets Law Article 7, § 108, or the General Municipal Law, where applicable.

§ 95-5. Dog licensing and license fees.

All dogs harbored within the Town of Westmoreland, which are over the age of four months, and which are not residing at a pound or shelter maintained under contract with the Town, or at a duly licensed and incorporated humane shelter, dog protective association or SPCA, or otherwise exempted, must be licensed by the Town of Westmoreland on an annual basis, licensing fees and surcharges to be set forth herein and amended as the Town Board sees fit, and a record of such licensure shall be maintained with the Town Clerk.

- A. **Rabies vaccination required.** All dogs in the Town of Westmoreland, which are over the age of four months, must maintain current rabies vaccinations. A current certificate of rabies vaccination must be presented at the time of initial licensing and for license renewal. Under no circumstances will a dog be granted a license without a current rabies vaccination certificate.
- B. **Duration.** Dog licenses shall remain valid for a period of one year, expiring upon the last day of the 12th month of the license period. However, under no circumstances shall a license remain valid beyond the last day of the 11th month following the expiration of a current rabies certificate. Should a licensed dog's rabies vaccination expire while its issued license is current, said vaccination must be brought up to date within five business days of its due date. If same is not renewed, the license shall automatically expire and

must be renewed with the Town Clerk upon proof of current rabies vaccination. Licenses are not transferable and must be reapplied for with the change of dog ownership.

- C. Renewal periods. The Town shall not establish common renewal dates for dog licensing and will review, grant and renew such licenses on a rolling basis upon application for license or license renewal by an owner.
- D. Tag numbers. Tag numbers shall initially consist of eight digits, beginning with the Oneida County/Westmoreland Town Code (3025) and commencing with the number 0001.
- E. Tag contents. Each tag shall identify the tag number, Town of Westmoreland, State of New York, and a contact phone number for the Town licensing authority.
- F. Tag replacement. If a tag is lost or stolen, the dog's owner(s) must report it to the licensing authority as soon as possible. Replacement tags shall be issued at a replacement cost of \$5 per tag.
- G. Fees. A nonrefundable licensing fee, to be utilized in the funding and administration of dog control in the Town of Westmoreland, shall be paid for each licensing term; regardless of whether such term shall terminate or expire prematurely, to the Town of Westmoreland as follows:
 - (1) For each spayed and neutered dog: \$6, which includes the statutory \$1 per year surcharge for the purpose of carrying out animal population control;
 - (2) For each unspayed and unneutered dog: \$18, which includes the statutory \$3 per year surcharge for the purpose of carrying out animal population control;
 - (3) For purebred licenses, the fees shall apply as follows:
 - (a) One to 10 dogs: \$30, plus \$1 for each spayed or neutered dog and \$3 for each unspayed or unneutered dog, for the purpose of carrying out animal population control, pursuant to Agriculture and Markets Law § 110(3);
 - (b) Eleven to 25 dogs: \$50, plus \$1 for each spayed or neutered dog and \$3 for each unspayed or unneutered dog, for the purpose of carrying out animal population control, pursuant to Agriculture and Markets Law § 110(3);
 - (c) Twenty-six or more dogs: \$75, plus \$1 for each spayed or neutered dog and \$3 for each unspayed or unneutered dog, for the purpose of carrying out animal population control, pursuant to Agriculture and Markets Law § 110(3);
 - (4) Enumeration fees of \$10 may be assessed, in addition to licensing fees, to any dog being found to be unlicensed or for which a prior license has expired and renewal not been applied for at the time enumeration is conducted;
 - (5) Service, guide, hearing and/or detection dogs shall be licensed, but shall be exempt from any licensing fee upon proof by the owner of the dog's status as such.

- H. Late fees. If an issued license is not timely renewed, a late fee shall be assessed in the amount of \$2 per month for each month following the month in which the license expired and must be paid along with the requisite licensing fees.
- I. Fee modification. The Town of Westmoreland may and is hereby authorized to, by resolution of the Town Board and without formal amendment hereto or further adoption of local ordinance or the need for a public hearing, establish, modify, or disband with a schedule of dog licensing fees, enumeration fees, late fees, and tag replacement fees, within the restrictions of and pursuant to the requirements of New York State Agriculture and Markets Law Article 7, as the Board may seem fit from time to time.
- J. Restrictions. The Town of Westmoreland does not allow for the licensing of dogs by a shelter. All adoptive dog owners must apply for licenses with the Town Clerk. Shelters must instruct all adoptive owners to apply for licenses at the Town Clerk's office of the municipality in which they will harbor the adoptive dog. Proof of licensing must be provided to the adoption agency or shelter prior to release of the dog to the new adoptive owner(s).
- K. Applications. Dog licenses must be purchased in person at the Westmoreland Town Clerk's office, upon submission of a completed application, certificate of current rabies vaccination, and veterinary certificate of spay or neuter, if applicable. The Town Clerk will mail renewal applications to all dog owners one month prior to the expiration of the license. The renewal may be hand delivered or mailed to the Town Clerk for processing, enclosing all appropriate fees. Dog owners are responsible for renewal of dog licenses and failure to receive a renewal application from the Town will not exempt an owner from this responsibility. If a renewal application is not timely received, an owner must report the oversight to the Town Clerk, verify that owner's address and contact information is correctly filed with the Town Clerk and request the renewal application in person, by telephone, written or electronic correspondence.
- L. Exemptions:
- (1) Any dog, harbored within the Town of Westmoreland, which is owned by:
 - (a) Resident of a City with a population of two million or more, such city resident being exempt from the licensing requirements established by state law; or
 - (b) A nonresident of the State of New York, but which dog is duly licensed in such state of the owner's residence, shall for a period of 30 calendar days be exempt from the licensing and identification provisions of this chapter.
 - (2) Further, dogs confined to a public or private veterinary or animal hospital, or for the purpose of research, shall be exempt from licensing requirements.
- M. Provisions herein shall be clarified and supplemented by New York Agriculture and Markets Law § 109.

§ 95-6. Regulations and restrictions; penalties for offenses.

- A. Violations. It shall be a violation pursuant to Agriculture and Markets Law § 118 for any owner of any dog, in the Town of Westmoreland, to:
- (1) Permit his or her dog to be unlicensed, bear no identification, false identification or the identification of another dog;
 - (2) Provide misleading information to the Town in relation to the requirements under the dog control and licensing laws;
 - (3) Fail to exercise due diligence in the handling or control of his or her dog if such failure results in harm or damage to another person or property;
 - (4) Fail to notify the Town of any change in ownership or address of a licensed dog, or to notify that such dog should be missing or stolen, as provided for in Agriculture and Markets Law § 112;
 - (5) Permit such dog to engage in habitual loud barking, howling, crying, whimpering or whining or such other conduct as to unreasonably and habitually annoy or disturb the comfort or repose of any person other than the owner of such dog;
 - (6) Permit such dog to cause damage or destruction to any property, including uprooting, digging or otherwise damaging the vegetables, lawns, flowers, garden beds, or other property, of another, without the consent or approval of same;
 - (7) Permit such dog to commit a nuisance by defecating or urinating upon the property of a person other than the owner of the dog;
 - (8) Permit such dog to chase, jump at or upon, or otherwise harass any person in such a manner as to cause reasonable intimidation or fear of such dog, or to put a person in a reasonable apprehension of bodily harm or injury;
 - (9) Keep or suffer to be kept a dog which has attacked any person peaceably conducting himself in any place where such person may lawfully be, or which has attacked, chased, worried or killed any domestic animal, as defined in the Agriculture and Markets Law, or any cat or other dog, while such animal is in any place where it lawfully may be;
 - (10) Permit a dog to habitually chase, run alongside of, or bark at motor vehicles, motorcycles, or bicycles while on a public street, highway, or place, or upon private property without the consent of the owner of such property;
 - (11) Permit a female dog while in heat to be off the owner's premises leashed or unleashed.
 - (12) Quarantine for the protection of deer will be enacted by the Town Board of the Town of Westmoreland when certain environmental conditions are met and pursuant to Agriculture and Markets Law § 120. The Town will publish in the official newspaper the starting and ending dates of such quarantine. Any dog found chasing or worrying deer during said quarantine can be seized pursuant to seizure

procedures as set forth in § 95-12 herein. A dog which attacks a deer at any time shall be in violation of this section and shall be subject to fines as set forth herein.

B. Penalties for violations:

- (1) A person found guilty of a violation of this section may incur a civil penalty not less than \$25 for a first offense, and no less than \$50 where a subsequent offense is committed within five years, and no less than \$100 where two or more previous offenses have been committed within the preceding five years, and as further set forth in the Agriculture and Markets Law § 118 and as may be amended pursuant to the authority granted the Town by Agriculture and Markets Law § 122.
- (2) A dog found guilty of an attack on deer, at any time, which results in the death or crippling of a deer, will result in a civil penalty of \$100 for the first deer, \$150 for each additional deer, or as otherwise provided in Agriculture and Markets Law § 120.

C. Penalties for negligent owners of dangerous dogs. An owner of a dog adjudicated to be a dangerous dog pursuant to Agriculture and Markets Law § 123 shall be subject to the penalties as provided for therein, including criminal sanctions for offenses deemed misdemeanors.

§ 95-7. Dog Control Officer.

The Town Board shall appoint and maintain a Dog Control Officer for the Town of Westmoreland to enforce this chapter. Such Dog Control Officer, or any peace officer, observing a violation of this chapter in his or her presence shall issue and serve an appearance ticket for such violation. A record of each incident shall be kept for a minimum of three years from the creation of such record.

§ 95-8. Shelters.

Every dog seized by the Dog Control Officer shall be transported to a contracted pound or shelter. Said pound or shelter shall be bound by the regulations and restrictions set forth herein, particularly the impounding and redemption rules at §§ 95-12 and 95-13, and as prescribed under Article 7 of the Agriculture and Markets Law, specifically § 117, and must maintain, redeem, sell, adopt, and/or euthanize all dogs.

§ 95-9. Enforcement.

This chapter shall be enforced by the Dog Control Officer appointed by the Town Board, any peace or police officer in the employ or acting under contract with the Town of Westmoreland. Such enforcing party may investigate and make applicable reports concerning any instance regarding the conduct of dogs and shall have the authority to issue appearance tickets and see that resulting orders of the Town Justices of the Town of Westmoreland are carried out.

§ 95-10. Complaints.

Any person who observes a dog in violation of any provision of this chapter may file a signed complaint or information with the Dog Control Officer. The complaint shall specify the objectionable conduct of the subject dog(s), the date and location thereof, the substance of the objectionable conduct and damage or injury resulting thereof, the name (if known) and description of the dog, and the name and address of the dog's owner(s) or harborer. In the case of a suspected dangerous dog, the requirements and provisions of Agriculture and Markets Law § 123 shall control.

§ 95-11. Appearance tickets.

Any Dog Control Officer or any peace or police officer employed by or under contract with the Town of Westmoreland shall issue to the owner of any dog observed in violation of this chapter or reasonably believed to be in violation of this chapter an appearance ticket for such violation.

§ 95-12. Seizure and impounding.

The Dog Control Officer or any peace or police officer employed by or under contract with the Town of Westmoreland may seize any dog which he or she observes in violation of any provision of § 95-6, pursuant to Agriculture and Markets Law Article 7, § 117. Any dog seized shall be fed, watered and properly cared for. Pursuant to Article 7, § 117(10), the seizure of any dog shall not relieve any person from penalty for any violation of this chapter. No liability in damages or otherwise shall be incurred on account of the seizure, euthanasia or adoption of any dog pursuant to the provisions of this chapter.

§ 95-13. Redemption and impoundment fees and/or fines.**A. Procedure.**

- (1) The owner of any unidentified dog, whether or not licensed, seized by the Town of Westmoreland shall be entitled to redeem such dog within five business days from the day following the day the dog is impounded, upon submission of proof that such dog is duly licensed and identified (i.e., has a current rabies certificate and id tags) and upon payment of the requisite fees set forth herein;
- (2) Upon the seizure of any identified or identifiable dog, the owner of record of such dog shall promptly be notified in person or by certified mail, return receipt requested, of the facts of the seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after the day of notice. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing. In either case, the owner may redeem such dog upon submission of proof that such dog is duly licensed and identified (i.e., has a current rabies certificate and id tags) and upon payment of the requisite fees set forth herein.

- (3) Seizure of any dog whose owner is not a resident of the State of New York or who is the resident of a New York city with a population of two million or more shall be governed pursuant to Agriculture and Markets Law § 117(9).

B. Fees for redemption:

- (1) Initial impoundment: a fee of \$30;
- (2) Second impoundment: a fee of \$45, plus \$3 per each additional twenty-four-hour period of impoundment following the first day;
- (3) Third and subsequent impoundments: a fee of \$65, plus \$3 per each additional twenty-four-hour period of impoundment following the first day.

- C. Forfeiture, adoption and euthanasia. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period and the dog shall then be made available for adoption, euthanized or transferred to another licensed pound or shelter pursuant to Agriculture and Markets Law §§ 117(7), (7-a) and 118. The Town of Westmoreland shall require all dogs adopted pursuant hereto to be spayed or neutered.

§ 95-14. Effect on previous laws.

This chapter constitutes an amendment to, and shall supersede the Town of Westmoreland's Local Law No. 4 of the year 2002, which established the prior Dog Control Law of the Town of Westmoreland, and shall supersede all other preexisting laws regarding the control of dogs in the Town of Westmoreland contrary hereto. No provision herein shall be less restrictive than the requirements set forth in the New York State Agriculture and Markets Law Article 7. Any provision found to be so shall be stricken and replaced with or amended to comply with the state requirements.

§ 95-15. Effective date.

This chapter shall take effect as of January 1, 2011, subject to this chapter being filed with the Secretary of State.