

Town of West Monroe

Local Law No. 2 of the year 2013

Be it enacted by the Town Board of the Town of West Monroe as follows:

**Section 1.     Title.**

This Local Law shall be titled “A local law No. 2 of 2013 establishing dog control regulations for the Town of West Monroe, New York.”

**Section 2.     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 3.     Purpose.**

The Town Board of the Town of West Monroe, New York hereby finds and declares that the purpose of this Local Law is to provide for the licensing and identification of dogs, the public peace and good order of the Town, the public welfare, preservation and protection of the property and persons of the Town, the establishment and enforcement of regulations on activities of all dogs and owners of dogs within the Town and the penalties for violations of this Local Law.

**Section 4.     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:**

**ADOPTION:** The delivery to any individual who is eighteen (18) years of age or older, for the purpose of harboring a pet, or any redeemed dog impounded pursuant to the provisions of this Local Law.

**AGRICULTURE 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.

**AT LARGE:** Any dog off of the property of its owner and not under the control of a competent person.

**CLERK:** Means the clerk of the Town where the licenses are validated or issued.

**CONFINED:** That such animal is securely confined or restrained and kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape there from.

**DANGEROUS DOG:** Means any dog which (i) without justification attacks a person, companion animal, farm animal or domestic animal and causes physical injury or death, or (ii) 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 (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death. DANGEROUS DOG does not include a police work dog which acts in the manner described in this paragraph while such police work dog is being used to assist one or more law enforcement officers in the performance of their official duties.

**DOG CONTROL OFFICER:** Any person authorized by the Town Board to enforce the provisions of this Local Law.

**EUTHANIZE:** To bring about death by a humane method.

**HARBOR:** To provide food and/or shelter to any dog.

**IDENTIFICATION TAG:** A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

**IDENTIFIED:** Means carrying an identification tag as provided for by this Local Law.

**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.

**PRIVATE PROPERTY:** Any Real Property owned or leased by an owner of a dog upon which the dog is harbored.

**RECREATIONAL AREAS:** Recreational areas shall mean any real property owned by the Town of West Monroe that is used for recreational purposes by the public including, but not limited to, parks or playgrounds.

**RESIDENT:** An individual who maintains a residence within the Town of West Monroe, County of Oswego, State of New York.

**RESTRAINT:** A dog is under restraint if it is controlled by a leash or in the presence of a competent person not less than fourteen years of age and obedient to that person's commands, on or within a vehicle being driven or parked on the street or within the property limit of its owner or keeper, or upon the premises of another with the consent of such other person.

**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.

**SCHOOL PREMISES:** Any real property situate within the Town of West Monroe that is used for educational purposes or purposes incidental thereto.

**TOWN:** means the Town of West Monroe, County of Oswego, State of New York

#### **Section 5. Licensing of Dogs.**

1. 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 Agricultural and Markets Law and the laws of the Town.
2. The Town Clerk and/or deputy town clerk are solely authorized to issue licenses for the Town of West Monroe. No pound, shelter or Dog Control officer is authorized to issue dog licenses for dogs redeemed or adopted.
3. 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.
4. The owner of any dog reaching the age of four months, unless otherwise exempted, shall immediately make application for a dog license. No license shall be required for any dog which is under the age of four months and which is not at large except as otherwise provided in this law.
5. The application shall state the sex, actual or approximate age, breed, color, and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. The Town of West Monroe may also require additional information on such application as deemed appropriate. The application shall be accompanied by the license fee and a certificate of rabies vaccination, provided such certificate or affidavit shall not be required if the same is already on file with the clerk. In lieu of the rabies certificate an owner may present a statement certified by a licensed veterinarian stating that he has

examined the dog and found that the life of the dog would be endangered by vaccinating due to old age or other reasons.

6. In the case of a spayed or neutered dog, every application shall also 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, provided such certificate or affidavit shall not be required if the same is already on file with the clerk. 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.
7. The license renewal will be mailed to the owner of record via US Postal Service prior to the month of expiration.
8. The following dogs are exempt from licensing fees: Any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. 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.

#### **Section 6. Term of License and Renewals.**

Each license issued pursuant to this Local Law, shall be valid for a period of one (1) 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 7. Fees.**

The annual fee for each dog license issued shall be determined by town board resolution. All revenue derived from such fees shall be the sole property of the municipality setting the same and shall be used only for controlling dogs and enforcing this article and any rule, regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs.

##### **1. 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 one dollar (\$1.00) payable at the time the dog license application is filed.

Each individual dog license for an unsplayed or unneutered dog shall be subject to an Animal Population Control Surcharge in the amount of three dollars (\$3.00) payable at the time the dog license application is filed.

## **2. Dog Enumeration Surcharge**

There will be a mandatory enumeration conducted every five (5) years. Each dog found to be unlicensed during a Town dog enumeration, shall be subject to a five dollar (\$5.00) dog enumeration surcharge payable at the time of the application is filed to license said dog. Such additional fee shall be the property of the licensing municipality and shall be used to pay the expenses incurred by the municipality in conducting the enumeration. In the event the additional fees collected exceed the expenses incurred by the town in conducting an enumeration in any year, such excess fees may be used by the town for enforcing this law.

## **3. Replacement Tag Fee**

A replacement tag fee shall be charged to offset the costs associated with the provision and replacement of identification tags. Such fee shall be determined by Town Board resolution.

## **Section 8. Issuance of license; identification tag.**

1. 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 Agriculture and Markets, or successor thereof.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. Identification tag.
  - a. 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.

- b. An identification tag is not required to be worn while the dog is participating in a dog show.
- c. 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.
- d. 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
- e. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner at the owner's expense. Any person wishing to replace a tag previously issued shall pay the fee to the Town Clerk for a replacement tag. Such fee shall be determined by Town Board Resolution.
- f. Any owner to fail to have any dog identified as required by this law; any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs shall be in violation of this law.

#### **Section 9. Purebred Dog License and Fee.**

1. The owner of one or more purebred dogs registered by a recognized registry association as defined in Agriculture and Markets Law, §108 may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by this Local Law. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.
2. The purebred dog license application shall state the name, address and telephone number of the owner; the county and town where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.
3. The application shall be accompanied by the license fee prescribed by this Local Law and a certificate of rabies vaccination or statement in lieu thereof, as required by this Local Law and article 7 of the State Agriculture and Markets Law.

4. Upon receipt of the foregoing items, the Town Clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefore shall be made.
5. The Town Clerk shall:
  - a. provide a copy of the purebred license to the owner; and
  - b. retain a record of the purebred license in the office of the Town Clerk.
6. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of subdivision (1) of this section, except when the new owner holds a valid purebred license.
7. Fees. Such fees shall be determined by Town Board Resolution.
8. Each Purebred Dog License shall be subject to an Animal Population Control Surcharge in amounts as determined by Town Board Resolution.

**Section 10.   Restrictions.**

1. Except as provided in Section 10(2) below, it shall be unlawful for any owner of any dog in the Town of West Monroe to permit or allow such dog to:
  - a. Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by command. For the purpose of this Local Law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.
  - b. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
  - c. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property not belonging to the owner of such dog.
  - d. 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.
  - e. Habitually chase, run along or bark at motor vehicles or bicycles while on a public street or highway or upon public or private property other than property of the owner or harborer of said dog.
  - f. Create a nuisance by defecating, urinating or digging on public property or private property.



- g. If an unspayed female dog, be permitted to be outside a building or a fenced enclosure unless on hand leash when in heat.
  - h. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto unless said dog is on a leash.
  - i. Roam with one or more other dogs in a pack.
  - j. Attack, injure or kill other animals except rats and mice.
  - k. Be and remain in any store or place where perishable goods are offered for sale to the public, or in any part of a restaurant where food is prepared.
  - l. Attack, bite, molest, maul or harass any person who is peaceably conducting himself in any place where he may lawfully be.
2. A dog shall be permitted to run at large on its owner's property so long as the dog can be placed under restraint should it become uncontrollable or dangerous to passersby.
  3. Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 10(1) of this Local Law shall be presumptive evidence against the owner or harbinger of such dog that he has failed to confine or leash or control his dog.

#### **Section 11. Enforcement.**

This Local Law shall be enforced by any dog control officer or member of a law enforcement agency, when acting pursuant to his special duties.

#### **Section 12. Seizure, Impoundment, Redemption and Adoption.**

1. Unless otherwise provided for in this Local Law, any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town may seize:
  - a. any dog found in violation of Section 10(1) of this Local Law;
  - b. any dog which is not identified and which is not on the owner's premises;
  - c. any dog which is not licensed, whether on or off the owner's premises;
  - d. 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 a dangerous dog; and
  - e. any dog which poses an immediate threat to the public safety.
2. 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 this Local Law and further provided that the owner pays the impoundment fees as prescribed by subdivision (5) of this section.

3. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by subdivision (5) of this section and by producing proof that the dog has been licensed.
4. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods.
5. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to this Local Law and paying the impoundment fees as follows unless there after revised by Resolution of the West Monroe Town Board:
  - a. \$15.00 for the first 24 hours or part thereof and \$5.00 for each additional 24 hours or part thereof for the first impoundment of any dog owned by that person;
  - b. \$20.00 for the first 24 hours or part thereof and \$5.00 for each additional 24 hours or part thereof for the second impoundment, within one year of the 1<sup>st</sup> impoundment, of any dog owned by that person; or
  - c. \$30.00 for the first 24 hours or part thereof and \$5.00 for each additional 24 hours or part thereof for the third and subsequent impoundments, within one year of the 1<sup>st</sup> impoundment, of any dog owned by that person.
6. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (5) of this section whether or not such owner chooses to redeem his or her dog.
7. Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized. Adoption fees shall be in the amount of \$10.00 or as determined by the West Monroe Town Board from time to time by board resolution.
8. No action shall be maintained against the Town of West Monroe, any dog control officer or constable when acting pursuant to his special duties, or any other agent or officer of the Town or person under contract to the Town of West Monroe 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.

**Section 13. Appearance Ticket.**

Any dog control officer, peace officer or constable when acting pursuant to his special duties in the employ or under contract to the Town of West Monroe, or any Police Officer, observing or having knowledge of, a violation of this Local Law shall issue and serve an appearance ticket for such violation.

**Section 14. Complaint.**

1. Any person who observes a dog in violation of this Local Law may file a complaint under oath with the dog control officer or constable 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 the dog. The dog control officer or constable shall forward said complaint to the Town Justice.
2. Upon receipt by the Town Justice of any such complaint, he shall summon the alleged owner to appear in person before him for a hearing, at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he may order:
  - a. The dog be declared a dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.
  - b. The dog may be confined to the premises of the owner.
  - c. Such other remedy as may be warranted by the circumstances in such case.
3. A violation of any order issued by the Town Justice under the provisions of this Section shall be offense punishable, upon conviction thereof, as provided in Section 15 of this Local Law.

**Section 15. Penalties.**

1. Upon conviction, a violation for failure to license a dog shall be deemed an offense and shall be punishable for a first offense by a fine not less than \$25.00; or a second offense within a period of 2 years from the first offense by a fine not less than \$50.00; and by a third offense and any subsequent offenses within a period of three years from the first offense by a fine not less than \$100.00.
2. Upon conviction, a violation of any other provision of this Local Law shall be deemed an offense, and shall be punishable for a first offense by a fine not less than \$50.00; or a second offense within a period of five years from the first offense by a fine not less than \$100.00.

**Section 16. 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 including the Dog Control Ordinance of the Town of West Monroe. All prior inconsistent Local Laws, Ordinances, Rules and Regulations shall be, upon the effectiveness of this Local Law, null and void.

**Section 17. Severability Clause.**

The provision 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 18. Effective Date.**

This Local Law shall be effective upon filing with the Secretary of State.