

Barking and Howling Dogs

Chapter 109, ANIMALS

[HISTORY: Adopted by the Town Board of the Town of Niagara 10-3-1979 by L.L. No. 5-1979. Amendments noted where applicable.]

§ 109-1. Running at large.

A. Prohibited acts; exception.

(1) No person owning, possessing, harboring or having care of, custody, control or charge of a dog shall allow, suffer or permit the same to run at large off the owner's premises, whether or not licensed, unless such dog be restrained by a leash, except as provided in Subsection A(2) hereof.

(2) A dog, while accompanied by its owner, or while accompanied by a person having the lawful care, custody, control or charge of such dog, and while such owner or person having the lawful care, custody, control or charge of such dog is actively and lawfully engaged in the act of hunting, or actively and lawfully engaged in the training of such dog to hunt, or lawfully using such dog to train other dogs, may be allowed, suffered or permitted to run at large without a leash upon lands where hunting is lawful.

(3) The provisions of this section shall apply notwithstanding the owner of such dog or the person charged with having the care, custody, control or charge of such dog or the person charged with possessing or harboring of such dog had no actual knowledge or notice of the violation of this section, and in all cases, mistake, inadvertence and excusable neglect shall not be a defense to the action prescribed in Subsection C hereof, nor shall it be a defense to the seizure of such dog as prescribed by Subsection B hereof.

(4) Any person invoking Subsection A(2) hereof as a defense to any act or action brought pursuant to this chapter shall bear the burden of proof as to any issue raised thereby, and said burden of proof shall be carried by a fair preponderance of the believable evidence.

B. Seizure of dogs found at large. Any peace officer, constable, Dog Control Officer of the Town of Niagara, or other person authorized to do so under the provisions of Article 7 of the Agriculture and Markets Law of the State of New York, shall seize any dog found at large in violation of Subsection A of this section. Such dog shall thereafter be cared for and disposed of in accordance with the provisions of § 118 of the Agriculture and Markets Law of the State of New York. EN

C. Penalties for offenses. The violation of this section is hereby designated as an offense against this chapter; any person violating the same shall forfeit and pay a civil penalty of \$25 for the first offense and \$100 for each and every subsequent offense, which penalty may be recovered by civil action on the part of and in the name of the Town of Niagara. [Amended 7-9-1991 by L.L. No. 5-1991]

§ 109-2. Application for license.

A. The Town Clerk is authorized to accept applications in the form prescribed by § 109 of the New York State Agriculture and Markets Law and, in the case of a spayed or neutered dog, every application shall be accompanied by a certificate of a licensed veterinarian or an affidavit signed by the owner stating that the dog has been spayed or neutered. The application for licensing purebred dogs shall conform to the provisions for the licensing of purebred dogs as contained in Article 7 of the New York State Agriculture and Markets Law. Said application shall

be accompanied by the license fee prescribed by § 110 of the New York State Agriculture and Markets Law and such additional license fees as the town imposes hereunder.

B. In the event that the State Commissioner of Health issues an order pursuant to Article 7 of the New York State Agriculture and Markets Law requiring dogs that are six months of age or over, and are harbored within Niagara County, be vaccinated to prevent rabies, the Town Clerk at the time of issuing any license pursuant to this chapter shall require the applicant to show proof that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that, because of the old age or other reason, the life of the dog or dogs would be endangered by the administration of such a vaccine. Such statement shall be filed with the Commissioner of Health by the Town Clerk as provided by § 109 of the Agriculture and Markets Law of the State of New York.

§ 109-3. License fees.

A. The annual license fee for each dog licensed under this chapter shall be as provided under § 110 of the Agriculture and Markets Law of the State of New York, and, in addition thereto, the town hereby imposes an additional annual fee as follows: [Amended 6-20-2000 by L.L. No. 2-2000]

(1) For each spayed or neutered dog: \$3.

(2) For each unspayed or unneutered dog: \$3.

B. The additional annual fee imposed by the town for each purebred license issued pursuant to Subdivision 4 of § 110, Article 7 of the Agricultural and Markets Law shall be:

(1) Five dollars if no more than 10 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the owner's premises at the time of the application.

(2) Five dollars if no more than 25 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the premises at the time of application or;

(3) Ten dollars if more than 25 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the premises at the time of application.

C. Guide dogs, hearing dogs, war dogs or police work dogs shall be exempt as provided in § 110, Subdivision 3, of the Agriculture and Markets Law of the State of New York. [Amended 5-19-1998 by L.L. No. 3-1998]

D. The additional fees imposed by the Town of Niagara shall be used for controlling dogs in the enforcement of this chapter or any local law adopted pursuant to Article 7 of the Agriculture and Markets Law and for the use of subsidizing a facility or provide services for the appointment of a humane society to perform the functions of a Dog Control Officer within the Town of Niagara.

§ 109-4. Dog Control Officers.

The Supervisor may enter into a contract in lieu of appointment of a Dog Control Officer for related services with any incorporated humane society-dog protective association, and such contract shall be ratified by the Town Board; said contract may provide for pound or shelter services and spaying and neutering facilities. Any such contract shall provide that when any animal is presented at a facility for alteration that a notarized statement signed by the owner consenting to such alteration be provided, and such statement shall hold the town its agents, servants or employees harmless for any damages.

§ 109-5. Impoundment fees. [Amended 7-9-1991 by L.L. No. 5-1991EN]

In accordance with § 118 of the Agriculture and Markets Law, the Town of Niagara hereby imposes impoundment fees as set from time to time by resolution of the Town Board which shall be collected by the Town Clerk prior to the release of the dog.

§ 109-6. Confinement of dogs.

The Supervisor, in his or her discretion, may order that all dogs in the town be confined between sunset and one hour after sunrise during a period of time by the order of the Supervisor or until such order is revoked. Notice of such order shall be given by publication in a newspaper of general circulation in the town and by filing a copy of the order in the office of the Town Clerk.

§ 109-7. Barking and howling dogs.

A. No person owning, harboring or keeping any dog or dogs shall suffer or permit such dog to disturb the peace and quiet of the neighborhood by barking, howling or making other loud or unusual noises for 10 or more continuous minutes.

B. Any person who owns, harbors or keeps any dog who is barking, howling or making other loud or unusual noises at any time of the day or night shall impound said dog in the owner's or keeper's home or residence. Failure of any person to impound said dog upon the request of a police officer is a violation of this chapter. Any person violating this section shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both. EN

§ 109-8. Penalties for offenses.

Penalties for violation of this chapter, in addition to what is specifically defined, shall be as provided in § 119 of the New York State Agriculture and Markets Law, and all fines collected by the town shall become the property of the town.