

they have to service a grinder pump they don't have to call somebody in, they can back this down to it and clean out the tanks so they can get down to the pump. They can also use it at the landfill for leachate. The cost is \$11,538.60 to be split up between both districts.

Council-member Potter asked if there was money in the budget for it?

Supervisor Merrihew: There is money in the budget and doing the math for the cost, it sounds like a large amount of money but if you consider what we pay to pump out the grinder pump and the leachate tanks.

Council-member Carlson: This will make us more self sufficient also. If the guys have trouble with something they can clean it out themselves we don't have to wait for somebody else to come with a vacuum truck. It will speed up the response time and actual down time.

Council-member Frisbee: I think it is a good idea, I noticed on the bills we did sign tonight there were a couple of pump outs.

Supervisor Merrihew: With 77 grinder pumps it is a cost saver.

Supervisor Merrihew: Dale was going out with RCap Solutions tonight and this is one of those things and I'm glad that Charles is here and getting in on the bottom floor. Dale has been out a couple of nights. It takes a lot of time to get a sewer district formed and make sure the costs are in line and pick the engineers and all of that kind of thing. We need to focus some time on this project for sewer district 3 as well some other town business. We're spending way too much time on highway stuff that he should be taking care of. Not that it isn't important.

A couple of days ago Jean and I met with John Brust from Delaware Engineering, they are very well known in the sewer district arena as far as constructing and forming the districts. What I would like to do is put them on at our Organizational meeting as a town designated engineer, that way when we get ready to go out to bid for the engineering services for sewer 3 we can send the bid out to all of our engineers including them.

Council-member Frisbee: I was impressed with them they seemed to know what they were talking about.

Resolution #198-09-Council-member Potter motioned seconded by Council-member Frisbee to adopt the Dog Control Law for the Town of Duanesburg. For discussion: Council-member Potter; this is just for us to get our cost's back. Motion carried 4 ayes, Council-members Potter, Frisbee, Carlson and Supervisor Merrihew.

TOWN OF DUANESBURG

Local Law No. 4 of the Year 2009

A LOCAL LAW SUPERCEDING LOCAL LAW 1 OF
THE YEAR 2001 RELATING TO THE REGULATION
OF DOGS WITHIN THE TOWN OF DUANESBURG

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

SECTION 1. TITLE

This Local Law shall be known as the "Dog Control Law" of the Town of Duanesburg.

SECTION 2. AUTHORITY

This Local Law amends and replaces in its entirety Local Law No. 1 of the Year 2001, and supercedes all prior Local Laws and Ordinances of the Town of Duanesburg relating to the regulation of dogs within the Town of Duanesburg. This Local Law is enacted pursuant to the authority of Chapter 220 of the Laws of 1978, as amended, constituting Chapter 69 of the Consolidated Laws of the State of New York, Section 124 of the Agriculture and Markets Law, authorizing towns to enact a local law upon the keeping or running at large of dogs and the seizure thereof, and pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law.

SECTION 3. PURPOSE

The purpose of this Local Law is to preserve public peace and good order in the Town of Duanesburg and to promote and protect the public health, welfare and safety of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Duanesburg.

SECTION 4. DEFINITIONS

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

ANIMAL CONTROL OFFICER:

Any individual appointed by the Town of Duanesburg to assist in the enforcement of this Local Law, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town of Duanesburg to assist in the enforcement of this Local Law.

AT LARGE:

An unleashed dog off the premises of the owner.

DOG:

Male or female, licensed or unlicensed, member of the species canis familiaris.

HARBOR:

To provide food or shelter to any dog.

OWNER: Any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in custody and control of parents or other heads of household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for purposes of enforcing this Local Law.

PERSON:

Any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

TOWN

The Town of Duanesburg.

SECTION 5. REGULATIONS AND RESTRICTIONS

A. It shall be unlawful for any owner of a dog in the Town to permit or allow such dog to:

- (1) Run at large in any street, road, lane, sidewalk and public lands in the Town or other Town property, or upon any private property without the consent of the person entitled to the possession of such property, unless accompanied by and under the control of its owner or a responsible person.
- (2) Be in any Town park at any time whether leashed or unleashed.

- (3) Engage in habitual loud howling or barking or to conduct itself in such manner as to habitually disturb the comfort or repose of any person other than the owner of such dog, for periods longer than thirty (30) minutes. The provisions of this subsection shall not apply to dogs that are guard dogs or herding dogs on working farms that are covered by the New York State "Right to Farm" Law under Article 25-AA of the New York State Agriculture and Markets Law and similar local laws.
- (4) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- (5) Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation or to put such a person in reasonable apprehension of bodily harm or injury.
- (6) Chase, leap or otherwise harass bicycles or motor vehicles.
- (7) Chase, injure or kill any dog, cat or other household pet or farm animal.
- (8) Deposit any fecal matter on any private property, Town public roadway, gutter, sidewalk, or other public area, or that portion of a front lawn owned by the Town and maintained by the landowner as a front owner, without the consent of the owner of said area.
 - (a) "Fecal matter" under this subsection is defined as all feces, excrement, manure, dung or solid waster matter discharged by a dog. Such soiling action is hereby declared to be a public nuisance.
 - (b) Such soiling action shall be deemed prevented and not a violation of this Local Law if such person shall immediately clean up all such fecal matter and droppings by causing the same to be gathered in a suitable container and disposed of in a safe and sanitary manner.
 - (c) The provisions of this subsection shall not apply to guide dogs, hearing dogs or service dogs accompanying any person with a disability as defined in Subdivision 21 of Section 292 of the Executive Law.
- (9) Be unlicensed when four (4) months of age or older.

- (10) Not have a current and valid New York identification tag affixed to its collar at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.
 - (11) Not have a current and valid New York tag secured to its collar indicating that the dog has been vaccinated against rabies, with the date of last vaccination marked on the tag, provided that the dog is at least four (4) months old.
 - (12) If a female dog, when in heat, be off the owner's premises, and be left outside unattended.
- B. For the purposes of this Local Law, dogs actually used for the sport of hunting shall be allowed to run at large while engaged in the sport of hunting, provided that said dogs are under the control of their owner or other responsible person, and further provided that said dogs are on property with the knowledge and consent of the owner of said property.

SECTION 6. SEIZURE OF DOGS; REDEMPTION

- A. The Animal Control Officer or any peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town, shall seize:
- (1) any dog which is not identified and which is not on the owner's premises.
 - (2) any dog which is not licensed, whether on or off the owner's premises.
 - (3) 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 under Section 122 of the New York State Agriculture and Markets Law.
 - (4) any dog which poses an immediate threat to the public safety.
- B. The Animal Control Officer or any peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town, may seize any dog not identified under Section 6(A) above and in violation of of any other section of this Local Law.
- C. Each dog seized shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

- D. Each dog seized which is not identified, whether or not licensed, shall be held for a period of five (5) 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 a current and valid New York identification tag and further provided that the owner pays the following impoundment fees of thirty (\$30.00) dollars for the first twenty-four hours or part thereof and thirty (\$30.00) dollars for each additional twenty-four hours or part thereof.
- E. The owner of record of each identified seized dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notice is personally given, such dog shall be held for a period of five (5) 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 period of seven (7) days from the date of mailing, during which period the dog may be redeemed by the owner. Any identified seized dog may be redeemed upon payment of the impoundment fees of thirty (\$30.00) dollars for the first twenty-four hours or part thereof and thirty (\$30.00) dollars for each additional twenty-four hours or part thereof and proof that the dog has been licensed.
- F. Any person claiming ownership of any dog shall be responsible for all additional expenses incurred and deemed necessary to protect the health and welfare of such dog, including the cost of veterinary care.
- G. In any case wherein it becomes necessary for the Town, in protecting the health and welfare of its citizens, to remove a dog or dogs to the protection of an animal shelter, the costs incurred for such harboring shall be borne by the owners of said dog or dogs.
- H. 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 or euthanized subject to the provisions of section three hundred seventy-four of the New York State Agriculture and Markets Law. Said owner shall, nevertheless, be responsible to the Town for the impoundment fees and other expenses incurred, including euthanasia fees, should this procedure become necessary. An action may be commenced by the Town to collect all said sums.

SECTION 7. LIMIT ON NUMBER OF DOGS

No person shall own or harbor more than five (5) dogs over four (4) months of age unless the owner operates an approved kennel authorized by a Special Use Permit issued by the Town in accordance with the Town's Zoning Ordinance.

SECTION 8. ANIMALS EXPOSED TO RABIES

Any person who keeps, harbors or has custody, care or control of an animal within the Town known to have bitten by another animal, either wild or domesticated, shall immediately confine the bitten animal and notify the Animal Control Officer or other authorities as prescribed by the New York State Public Health Law and Sanitary Code.

SECTION 9. CONDITIONS FOR KEEPING DOGS

All premises occupied or used by dogs shall be kept in a clean, sanitary condition, and adequate food, water and shelter shall be available. Failure to provide adequate food, water and shelter shall subject the owners or harborers of dogs to the enforcement provisions of Article 26 of the New York State Agriculture and Markets Law.

SECTION 10. COMPLAINTS, PROCEDURE AND HEARING

A. Any person claiming a violation of this Local Law may make a signed, written complaint to the Town Animal Control Officer or any other Town officer. Such complaint shall specify the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog, and if known, the name and address of the owner or person harboring the dog. Upon receipt of a written, signed complaint, the Animal Control Officer shall notify the owner or harborer of the dog by letter by certified mail or in person, of the objectionable conduct. Failure to accept such letter by the owner or harborer of the dog does not invalidate the notification.

B. Upon reasonable belief by the Animal Control Officer that there has been a violation of this Local Law, such Animal Control Officer shall issue an appearance ticket requiring the owner or harborer of the dog to appear before a Town Justice.

C. The Town Justice shall hold a hearing for the purpose of determining whether or not the owner or harborer of the dog, which is the subject of the complaint, is in violation of this Local Law. If the owner or harborer of such dog concedes the complaint, or if after a hearing, the Town Justice finds the owner or harborer of such dog to be in violation, he may, in addition to the penalties hereafter set forth, order the owner or person harboring said dog to confine the dog to the premises of the owner, subject to seizure by the Animal Control Officer for failure to confine said dog.

SECTION 11. INTERFERING WITH ENFORCEMENT

No person shall hinder, resist or oppose the Animal Control Officer, peace officer or other person(s) authorized to administer or enforce the provisions of this Local Law in the performance of the officer's duties under this Local Law. A

violation of this Section shall constitute a violation of this Local Law and shall be subject to Penalties as stated in Section 12 of this Local Law.

SECTION 12. PENALTIES

A. All court costs and attorney fees incurred by the Town shall be the financial responsibility of the defendant if such defendant concedes the violation of this Local Law or is found in violation of this Local Law by a Town Justice.

B. Except as otherwise provided in Section 119 of the New York State Agriculture and Markets Law, a violation of this Local Law shall be deemed a violation under the New York State Penal Law and any person conceding or convicted of such violation shall be fined not less than twenty-five (\$25.00) dollars or more than one hundred (\$100.00) dollars for the first violation, and not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars for subsequent violations within a six (6) month period.

C. Owners or harborers of "dangerous dogs" as defined in Section 108(24) of the New York State Agriculture and Markets Law may also be prosecuted under Section 122 of that law which may subject said owner to additional fines and/or destruction of the dog involved. The Animal Control Officer shall initiate dangerous dog proceedings when warranted pursuant to Section 122 of the New York State Agriculture and Markets Law.

SECTION 13. LIMITATION OF LIABILITY

The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a wilful or intentional act of the Town. In addition to the foregoing, the Town shall not be liable or responsible for any destruction of any animal pursuant to this Local Law or the provisions of the New York State Agriculture and Markets Law.

SECTION 14. CONFLICT WITH NEW YORK STATE LAWS

In the event of any conflict between the New York State Agriculture and Markets Law and this Local Law, the provisions of the New York State Agriculture and Markets Law shall take precedence. This Local Law may, pursuant to the New York State Agriculture and Markets Law and Section 10 of the New York State Municipal Home Rule Law, be (a) more stringent than the standards set forth in the New York State Agriculture and Markets Law, and (b) supercede the Agriculture and Markets Law to the extent such Agriculture and Markets Law is silent upon any matter herein regulated, stated, or required.

SECTION 15. SEVERABILITY CLAUSE

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

SECTION 16. PRONOUNS AND PLURALS

Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural, and vice versa.

SECTION 17. EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Supervisor Merrihew: The next resolution is in connection with Mariaville Service Award Program for the fire department, we passed a resolution to have Penflex be the administrator and we neglected to have Coamerica be the custodian of the funds. That was supposed to be done at the same time.

Resolution #199-09- Council-member Carlson motioned, seconded by Council-member Potter to designate Coamerica Bank as agent for the Mariaville Service Award Program: Motion carried 4 ayes, Council-members Carlson, Potter Frisbee and Supervisor Merrihew.