

PART II – GENERAL LEGISLATION

Chapter 37 Animal Control

[Amended and Adopted, December 27, 2012, as Chapter 37 of the Code]

Article I Animals and Fowl Sections 37-1 – 37-10

[Adopted as G.O. 1930, Adopted as Ch. 37 of the Code, Amended by L.L. #2 of 2013]

Article II Dog Control Sections 37-11 – 37-25

[Adopted as Chapter # 1 of 1985, Amended and adopted as Ch. 37 of the Code, Amended by LL #1 of 2019]

Article I Animals and Fowl

Section 37-1 – Livestock prohibited at large – No person owning or having in his possession or charge any horses, cattle, mules, goats, sheep, cows, calves, steers or swine or other livestock, shall permit such livestock to run at large in any of the streets, lanes, alleys, or public grounds or places of or in the village.

Section 37-2 – Fowl prohibited at large – It shall be unlawful for any person, being the owner or keeper of any poultry or fowl, to suffer or permit the same to go or be at large in the village.

Section 37-3 – Leaving animals unhitched; hitching to trees, fixtures – No person shall leave any horse or other animal in any street or public place in the village unless such animal is securely tied so as to prevent such horse or animal from moving or running away from the place where so tied or hitched; nor shall any person tie or hitch any horse or other animal to any tree or fixture in any public street or place in a manner which would result in injury to such tree or fixture.

Section 37-4 – Keeping Certain Animals – No person shall keep or house any animals or poultry, other than household pets or operate a kennel of four (4) or more dogs within the limits of the Village (Amended by Local Law No. 2 of 2013).

Sections 37-5 – 37-10 – Reserved

Article II Dog Control

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Section 37-11 – Short Title and Applicability – This Article shall be known as the Dog Control Law of the Village of Marcellus, New York.

Section 37-12 – Legislative Declaration – It is the purpose of this Article to protect the health, safety and general welfare of the inhabitants of the Village of Marcellus by regulating the actions and behavior of dogs and of their owners in the Village of Marcellus, New York, so as to afford consistent protection of the rights and privileges of the owners of dogs, reasonable control of said animals, and the rights and privileges of other citizens of the Village of Marcellus, New York. This Article is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York and is enacted for the purpose of supplementing the provisions contained in said law. This law is in no way intended to relieve the duties imposed by Article 7 of the Agricultural and Markets Law upon the Dog Control Officer of the Town of Marcellus relative to unlicensed dogs in the Village of Marcellus, New York.

Section 37-13 – Definitions – Unless otherwise expressly indicated, the following terms for the purpose of this Article have a meaning indicated in this Section.

a) "AT LARGE." Any dog shall be deemed at large when it is off the property of its owner and not under restraint of a competent person.

b) "COMPETENT PERSON." Person who is suitably fit, mentally and physically, to control a dog and make it obedient to that person's command or direction.

c) "DOG." Shall include both male and female dogs whether licensed or not and whether female dogs be spayed or not.

d) "IDENTIFIED." As defined in Article 7 of the Agriculture and Markets Law.

e) "OWNER." Any person who owns, keeps, or harbors or has the care, custody or control of a dog. Dogs owned by minors shall be deemed to be in the custody of the minor's parents, or other head of the household in which the minor resides.

f) "RESTRAINT." A dog is under restraint if it is:

1. Controlled by a leash; or
2. In the presence of a competent person and obedient to that person's commands and directions; or
3. On or within a vehicle being driven or parked on any street; or
4. Within the property limits of its owner whether or not said property is the residence of the owner; or
5. Upon the premises of another person not the owner of the dog with the consent of such other person.

Section 37-14 – Restrictions – No owner shall:

- a) Permit or allow a dog to run at large within the Village of Marcellus unless such dog shall be restrained as defined herein; or
- b) Keep or harbor a dog which howls or barks habitually or continuously so as to disturb the peace and quiet of other persons.
- c) No owner shall keep more than three (3) dogs over six months old within the Village. Keeping more than three (3) dogs over six months constitutes a kennel regardless of whether the kennel is for profit or not.
- d) Unsanitary deposits prohibited – It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Village, or in any area under the jurisdiction of the Village, any human or animal excrement, garbage or other objectionable waste. (Local Law #1 of 2019, January 28, 2019)

Section 37-15 – Private Contractor – The Board of Trustees of the Village of Marcellus may contract with any person or corporation to provide services for seizure of dogs in violation of this Article and shelter of same. Any employee of said private contractor with the village shall be deemed a Dog Control Officer within the meaning of Article 7 of the Agriculture and Markets Law in performing duties within the Village of Marcellus relative to seizure of said dogs under the aforesaid contract.

Section 37-16 – Unlicensed dogs – If a dog is seized as being at large in accordance with this Article and said dog is also unlicensed as required by Article 7 of the Agriculture and Markets Law, said un-licensing shall also be considered a violation of this Article.

Section 37-17 – Seizure of dogs

a) CARE OF DOGS. Every dog seized in accordance with this Article shall be properly fed and cared for at the expense of the Village of Marcellus until disposition thereof be made as herein provided.

b) DOGS NOT IDENTIFIED. Each dog which is not identified, whether or not licensed, shall be held for a period of five (5) business 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 the provisions of Article 7 of the Agriculture and Markets Law and further provided that the owner pays the fees hereinafter set forth.

c) IDENTIFIED DOGS. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail by the Village Clerk or the agent of the Village Clerk, 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 (7) business days after the day said notice is served 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

(9) business days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem the dog upon payment of the fees hereinafter set forth, and, by producing proof that the dog has been licensed.

d) FORFEITURE. 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 destroyed in accordance with Article 7 of the Agriculture and Markets Law. No dog shall be released for adoption unless it is licensed properly in the municipal jurisdiction of the adopting party.

e) REDEMPTION FEES. The following fees are charged for the seizure and care of a dog found in violation of this Article and shall not be considered penalties to be imposed as hereafter set forth before a local magistrate.

1. There shall be a redemption fee of \$25.00 for the first seizure of such dog.
2. There shall be a redemption fee of \$50.00 for the second seizure of such dog within a period of one (1) year from the first seizure and a like amount for any subsequent seizure within this period.
3. There shall be a boarding fee per day plus the cost of any medicines or veterinary care provided.
4. All such fees shall be payable to the Village Clerk along with submission of proof of licensing of said dog with the Town Clerk before any seized dog may be released by the Village of Marcellus or its contracting party.
5. In the event said seized dog is adopted or destroyed then the Village of Marcellus may commence appropriate legal action against the owner of said seized dog for the costs of boarding and other care as set forth in Section 37-17(e)(3) hereof.

Section 37-18 – Violation and Penalty – Any person who violates this Article or knowingly permits the violation of this Article or any of its provisions shall be deemed to have committed an offense against this Article and any person convicted of any such violation shall be liable to a fine of not more than Twenty-five Dollars (\$25.00) and/or imprisonment for not more than fifteen (15) days for a first violation; not more than Fifty Dollars (\$50.00) and/or imprisonment for not more than fifteen (15) days for the second violation; and not more than Seventy-five Dollars (\$75.00) and/or imprisonment for not more than fifteen (15) days for the third violation and all subsequent violations. If proceedings are brought before any local magistrate to enforce these penalties, they shall be in addition to any fees established in this Article and whether or not the dog is seized and/or redeemed.

Section 37-19 – 37-25 – Reserved