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	ARTICLE 7
	LICENSING, IDENTIFICATION AND CONTROL OF DOGS
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S 106. Purpose. The purpose of this article is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

S 107. Application. 1. This article shall apply to all areas of the state except any city having a population of over two million except that the provisions in this article relating to the animal population control program shall be applicable to the entire state.

2. In the event that any dog owned by a resident of any city having a population of over two million or by a non-resident of this state is

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harbored within this state outside of any such city, such dog shall be exempt from the identification and licensing provisions of this article for a period of thirty days provided such dog is licensed pursuant to the provisions of law of the area of residence.

3. This article shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.

4. This article shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act, provided that such person, firm or corporation has obtained a certificate of exemption. Application for such certificate shall be made annually to the commissioner and shall be accompanied by a fee of one hundred dollars.

5. Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed. Notwithstanding the provisions of subdivision one of this section, this subdivision and section one hundred twenty-one of this article shall apply to all municipalities including cities of two million or more.

S 108. Definitions. As used in this article, unless otherwise expressly stated or unless the context or subject matter requires otherwise:

1. "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered, or any cat.

3. "Clerk" means the clerk of any town, city or village where licenses are validated or issued pursuant to this article.

4. "Commissioner" means the state commissioner of agriculture and markets.

5. "Dog" means any member of the species canis familiaris.

6. "Dog control officer" means any individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.

7. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.

8. "Euthanize" means to bring about death by a humane method.

9. "Guide dog" means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.

10. "Harbor" means to provide food or shelter to any dog.

11. "Identification tag" means a tag which sets forth an official identification number as required by the provisions of this article.

12. "Identified dog" means any dog carrying an identification tag as provided in section one hundred twelve of this article.

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13. "Municipality" means any county, town, city and village.

14. "Official identification number" means a series or combination of letters, numbers or symbols approved and furnished by the commissioner.

15. "Owner" means any person who harbors or keeps any dog.

16. "Owner of record" means the person in whose name any dog was last licensed pursuant to either subdivision one or subdivision two of section one hundred nine of this article, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of section one hundred thirteen of this article, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

17. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

18. "Police work dog" means any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

19. "Recognized registry association" means any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the commissioner.

20. "War dog" means any dog which has been honorably discharged from the United States armed services.

21. "Hearing dog" means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

22. "Service dog" means any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.

23. "Person with a disability" means any person with a disability as that term is defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

24. "Dangerous dog" means any dog which (a) without justification attacks a person and causes physical injury or death, or (b) poses a serious and unjustified imminent threat of harm to one or more persons, or (c) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

25. "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the department; provided, however, that such services provided by said dog shall be performed without charge or fee.

* 26. "Detection dog" means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, firearms, cadavers, or school or correctional facility contraband.

* NB There are 2 sub 26`s

* 26. "Therapy dog" means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

* NB There are 2 sub 26`s

S 109. Licensing of dogs; rabies vaccination requirement. 1. Licensing of dogs. (a) The owner of any dog reaching the age of four months 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. A license shall be renewed after 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, provided that any municipality, authorized to issue licenses pursuant to this article, which has a population not exceeding two thousand five hundred may, upon the approval of and pursuant to rules and regulations promulgated by the commissioner, establish a common renewal date for all such licenses.

(b) Application for a dog license shall be made to the clerk of the town or city or, in the counties of Nassau and Westchester, incorporated village in which the dog is harbored or to the village clerk of those villages in the county of Rockland with a population of fifteen thousand or more which have elected to accept applications pursuant to the provisions of this paragraph or to the village clerk of the village of Newark in the county of Wayne upon the election of the village of Newark pursuant to the provisions of this paragraph. Provided, however, that in the counties of Nassau and Westchester, the board of trustees of any incorporated village may by resolution provide that applications for licenses shall no longer be made to the village clerk, but to the clerk of the town in which the village is situated. If such resolution is approved by the town board of the town in which the village is situated, such resolution shall become effective not less than six months after a certified copy of such resolution of the village board and of the resolution of approval of the town board shall have been filed with the commissioner. Provided further, however, that in the county of Rockland, the board of trustees of any incorporated village with a population of fifteen thousand or more may by resolution provide that application for licenses shall be made to the village clerk. Provided further, however, that in the county of Wayne, the board of trustees of the village of Newark may by resolution provide that application for licenses shall be made to the village clerk. If such resolution is approved by the town or towns in which the village is located, it shall become effective not less than six months after a certified copy of such approved resolution shall have been filed with the commissioner. The governing body of any town or city or, in the counties of Nassau and Westchester, incorporated village or in the county of Rockland, those villages with a population of fifteen thousand or more which have so elected to accept applications or in the county of Wayne, the village of Newark if such village has so elected to accept applications may, on resolution of such body, authorize that such application be made to one or more named dog control officers of any such town, city or village. The issuance of any license by any such officer shall be under the control and supervision of the clerk. In the case of a seized dog being redeemed or a dog being otherwise obtained from a county animal shelter or pound, such application may be made to the county dog control officer in charge of such facility provided such officer has been authorized by the commissioner to accept such applications. In the case of a dog being redeemed or a dog being adopted from a shelter or pound established, maintained or contracted for, pursuant to section one hundred fifteen of this article, such application may be made to the manager of such facility, provided such manager has been authorized by the commissioner to accept such application. Such authorization shall be requested by the governing body of the pound or shelter and the granting or denial of such authorization shall be in the discretion of the commissioner.

(c) The application shall state the sex, actual or approximate age, breed, color, and official 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.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision three of this section. 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 or authorized dog control officer. 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 as set forth in paragraph (a) of subdivision one of section one hundred ten of this article.

(e) Upon validation by the clerk, authorized dog control officer or authorized pound or shelter manager, the application shall become a license for the dog described therein. Once an application has been validated, no refund therefor shall be made.

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the license to the owner; (ii) send, by the fifth day of the month following the month of license issuance, a copy of the license, or a report of the information contained therein, to the commissioner; and (iii) retain a record of the license in the manner prescribed by the commissioner. In addition, the authorized pound or shelter manager shall send, within forty-eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall send to the commissioner a copy of the validated license, or a report of the information therein, by the fifth day of the month following the month of license issuance. In addition, the authorized dog control officer or authorized pound or shelter manager in such municipalities shall, within five business days after the license has been validated, send a copy of the validated license to the licensing municipality in which the dog is to be harbored.

2. Purebred license. (a) The owner of one or more purebred dogs registered by a recognized registry association may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by subdivision one of this section. 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.

(b) Such application shall be made to the person specified in paragraph (b) of subdivision one of this section.

(c) The application shall state the name, address and telephone number of the owner; the county and city, town or village 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.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision three of this section.

(e) Upon receipt of the foregoing items, the clerk or authorized dog control officer 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 therefor shall be made.

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the purebred license to the owner; (ii) send, by the fifth day of the month following the month of license issuance, a copy of the purebred license, or a report of the information contained therein, to the commissioner; and (iii) retain a record of the purebred license in the manner prescribed by the commissioner. In addition, the authorized dog control officer or authorized pound or shelter manager shall send, within forty-eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) 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 one of this section, except when the new owner holds a valid purebred license.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall send to the commissioner a copy of the validated license, or a report of the information contained therein, by the fifth day of the month following the month of license issuance. In addition, the authorized dog control officer or authorized pound or shelter manager in such municipalities shall, within five business days after the license has been validated, send a copy of the validated license to the licensing municipality within which the dog is to be harbored.

3. The clerk, authorized dog control officer or authorized pound or shelter manager, at the time of issuing any license pursuant to this article, shall require the applicant to present a statement certified by a licensed veterinarian showing 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 old age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The clerk, authorized dog control officer or pound or shelter manager shall make or cause to be made from such statement a record of such information as may be required by the commissioner and shall file such record with a copy of the license.

S 110. License fees. 1. The annual fee for each dog license issued pursuant to subdivision one of section one hundred nine of this article shall be:

- (a) two dollars and fifty cents for each spayed or neutered dog;
- (b) seven dollars and fifty cents for each unspayed or unneutered dog.

2. The annual fee for each purebred license issued pursuant to subdivision two of section one hundred nine of this article shall be:

- (a) twenty-five dollars, if no more than ten 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;

(b) fifty dollars, if no more than twenty-five 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

(c) one hundred dollars, if more than twenty-five 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.

3. There shall be no fee for any license issued for 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 clerk or authorized dog control officer.

4. a. Any town or city or any village issuing licenses pursuant to the provisions of this article may, by local law or ordinance, set license fees in addition to those set by subdivisions one and two of this section, provided that the total fee for an unspayed or unneutered dog shall be at least five dollars more than the total fee for a spayed or neutered dog, and further provided that such additional fees shall not exceed, in the case of subdivision one of this section, ten dollars and, in the case of subdivision two of this section, twenty-five dollars. Such additional fees shall be the 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 and any facility as authorized under section one hundred seventeen of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

b. Any town, city or village enacting the provisions of paragraph a of this subdivision may adopt a resolution exempting from the payment of such additional fees, dogs owned by one or more persons each of whom is sixty-five years of age or over.

c. In addition to the fee charged pursuant to subdivisions one and two of this section, any person applying for a dog or purebred license shall pay a fee of three dollars for any dog four months of age or older which has not been spayed or neutered unless an owner presents with the license application a statement certified by a licensed veterinarian stating that he or she 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. All fees collected pursuant to the provisions of this paragraph shall be forwarded by the commissioner to the state comptroller for deposit in the animal population control fund, created pursuant to section ninety-seven-xx of the state finance law and section one hundred seventeen-a of this article.

d. In addition to any other applicable fee, any person applying for a dog or purebred license for a dog identified as unlicensed during an enumeration conducted pursuant to subdivision seven of section one hundred fourteen of this article shall pay a fee of five dollars. 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 municipality in conducting an enumeration in any year, such excess fees may be used by the municipality for any other lawful purpose.

S 111. Disposition of license fees. 1. (a) On or before the fifth day of each month, the clerk or authorized county dog control officer shall

remit to the appropriate county financial officer forty-seven percent of all license fees, except those exempted by paragraphs a, b and c of subdivision four of section one hundred ten of this article, collected during the preceding month. The remittance shall be accompanied by a report of license sales made during said month. A copy of such report shall simultaneously be sent to the commissioner. The balance of such license fees shall be the property of the reporting municipality 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 and any facility, as authorized under section one hundred seventeen of this article, used therefor, and subsidizing public humane education programs in responsible dog ownership.

(b) On or before the fifth day of each month, the authorized pound or shelter manager shall remit to the financial officer of the county within which the shelter is located, forty-seven percent of all license fees, except those exempted by paragraphs a, b and c of subdivision four of section one hundred ten of this article, collected during the preceding month. The remittance shall be accompanied by a report of license sales made during said month. A copy of such report shall simultaneously be sent to the commissioner. The authorized pound or shelter manager shall remit the balance of such license fees to the financial officer of the licensing municipality within which the shelter is located. The fees remitted to the municipality shall be the property of that municipality 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 and any facility, as authorized under section one hundred seventeen of this article, used therefor, and subsidizing public humane education programs in responsible dog ownership.

2. On the fifteenth day of each month, the county financial officer shall remit to the commissioner thirty-six percent of all license fees received by the county under this article. The moneys retained by the county shall be used 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 and any facility, as authorized under section one hundred seventeen of this article, used therefor, and subsidizing public humane education programs in responsible dog ownership, and may also be used for the prevention and investigation of cruelty to animals.

3. On or before the first day of February in each year, the county financial officer shall apportion and pay to the appropriate financial officer of each town, city and village in the county, ratably to the annual remittance made to the county by such town, city or village, seventy-five percent of any portion of the moneys not expended by the county during the preceding calendar year for the purposes set forth in subdivision two of this section. Such moneys shall be used by the towns, cities and villages only for the purposes set forth in subdivision one of this section.

4. (a) The moneys received by the commissioner pursuant to subdivision two of this section shall be paid into the state treasury, and shall, so far as necessary, be appropriated annually by the legislature to the department to be used by the commissioner in supervising the enforcement of and in implementing this article and rules and regulations promulgated pursuant thereto, including, without limitation, the issuance of special identification tags for guide dogs, service dogs, hearing dogs and detection dogs. In addition, from such moneys paid into the state treasury, the legislature shall appropriate annually to the New York State Veterinary College at Cornell a sum

equivalent to ten cents for each dog licensed annually, to be used by the college to conduct studies into diseases of dogs and to search for and study viruses that affect man and animals, or to study and develop a pharmaceutical contraceptive for dogs.

(b) The commissioner shall also remit to the state treasury the moneys received by him pursuant to the dog license law of the city of New York (section eight-a of chapter one hundred fifteen of the laws of eighteen hundred ninety-four, as added by chapter one thousand two of the laws of nineteen hundred seventy). Such moneys shall be appropriated annually by the legislature to the veterinary college for the purposes set forth in paragraph (a) above.

(c) The expenditure of moneys from license fees appropriated to support research conducted at the New York State College of Veterinary Medicine at Cornell into canine diseases affecting humans and animals shall not exceed the annual revenues obtained from fees received under this section for such purposes.

* 5. (a) On or before the fifteenth day of each month, the clerk of any city, town or village located in Nassau county where licenses are validated or issued pursuant to this article shall remit directly to the commissioner sixteen and ninety-two hundredths percent of all license fees collected during the preceding month, except the fees exempted by subdivision four of section one hundred ten of this article. The remittance shall be accompanied by a report of license sales made during such preceding month.

(b) The remaining eighty-three and eight hundredths percent of such license fees shall be the property of the reporting municipality and shall be used only for controlling dogs and enforcing the provisions of this article and any rule or regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility, as authorized under section one hundred seventeen of this article, used therefor, and subsidizing public humane education programs in responsible dog ownership.

(c) On or before the fifth day of each month, the authorized pound or shelter manager of each pound or shelter located in Nassau county shall remit directly to the commissioner sixteen and ninety-two hundredths percent of all license fees collected during the preceding month, except the fees exempted by subdivision four of section one hundred ten of this article. The remittance shall be accompanied by a report of license sales made during such preceding month.

(d) On or before the fifth day of the month, the authorized pound or shelter manager shall remit to the financial officer of the licensing municipality within which the shelter is located, the remaining license fees collected during the preceding month, including those collected pursuant to subdivision four of section one hundred ten of this chapter. Such fees shall be the property of the municipality 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 and any facility, as authorized under section one hundred seventeen of this article, used therefor, and subsidizing public humane education programs in responsible dog ownership.

* NB There are 2 sub. 5`s

* 5. Notwithstanding any other provision in this article, on or before the fifth day of each month, all clerks and authorized county dog control officers and authorized pound and shelter managers shall remit to the commissioner all moneys they received during the preceding month pursuant to paragraph c of subdivision four of section one hundred ten of this article. The remittance shall be accompanied by a report of license sales to persons who paid the additional three dollar license

fee. Such report shall also contain such other information as the commissioner may require by rule or regulation.

* NB There are 2 sub. 5`s

S 111-a. Special and temporary provisions for license fee; Onondaga county. 1. For the nineteen hundred eighty-six, nineteen hundred eighty-seven and nineteen hundred eighty-eight calendar years the aggregate amount of license fees collected by the county of Onondaga that must be remitted to the commissioner shall be the lesser of (a) thirty-six percent of all license fees received by such county under this article during such year, or (b) an amount equal to the amount remitted to the commissioner during the nineteen hundred eighty-five calendar year pursuant to the provisions of subdivision two of section one hundred eleven of this chapter. Monthly payments shall be made by the county financial officer of such county to the commissioner in accordance with the provisions of such subdivision provided however, that whenever the aggregate amount so remitted during any of such year equals either of such amounts as hereinabove provided no additional remittance shall be required for the remainder of such year.

2. The amount by which the fees which would otherwise be remitted by such county to the commissioner pursuant to subdivision two of section one hundred eleven of this article exceeds the amount actually remitted pursuant to the provisions of subdivision one of this section shall be used by such county for controlling dogs, including subsidizing the spaying or neutering of dogs and any facility used therefor; subsidizing public humane education programs in responsible dog ownership and the prevention and investigation of cruelty to animals.

S 112. Identification of dogs. 1. Each dog licensed pursuant to subdivision one of section one hundred nine of this article shall be assigned, at the time the dog is first licensed, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.

2. The official 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.

3. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner at his expense at a fee and in a manner prescribed by the commissioner.

4. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

5. The holder of a purebred license may procure, at his expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.

6. The shape, size and form of imprints on identification tags and purebred license tags shall be prescribed by the commissioner, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this article.

7. The applicant for a license for any guide dog, service dog, hearing

dog or detection dog may procure a special tag for identifying such dog. This special tag shall be in addition to the identification tag required by subdivision one of this section. The commissioner shall prescribe the shape, size, color, and form of imprint of the tag which shall be a different color and shape than the official identification tag. Upon application, the commissioner shall furnish such tags without payment of a fee.

8. Fees received by the department pursuant to this section shall be deposited in an account within the miscellaneous special revenue fund.

S 113. Change of ownership; lost or stolen dog. 1. In the event of a change in the ownership of any dog which has been assigned an official identification number or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the commissioner a written report of such change. Such owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.

2. 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 file with the commissioner a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this article committed after such report is filed.

3. In the case of a dog's death, the owner of record shall so notify the commissioner either prior to renewal of licensure or upon the time of such renewal as set forth in subdivision one of section one hundred nine of this chapter. Until such time that the commissioner files such information with the central registry of official identification numbers, said number shall not be reassigned. Failure to notify the commissioner of the death of a dog as so required herein shall constitute a violation and the owner of record shall be held liable.

S 114. Dog control officers. 1. Each town and city, and each village in which licenses are issued, shall appoint, and any other village and any county may appoint, one or more dog control officers for the purpose of assisting, within the appointing municipality, with the control of dogs and the enforcement of this article and rules and regulations promulgated pursuant thereto.

2. In lieu of or in addition to the appointment of a dog control officer or officers, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for dog control officer services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall appoint, jointly with one or more other municipalities, one or more dog control officers having jurisdiction in each of the cooperating municipalities.

3. The commissioner may appoint as many state dog control officers as he deems necessary to supervise the provisions of this article and any rules and regulations adopted pursuant thereto.

4. Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this article. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this article may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any

proceeding, whether criminal or civil in nature undertaken in accord with the provisions of this article or any local law or ordinance promulgated pursuant thereto.

5. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

6. Every dog control officer shall file and maintain, in the manner prescribed by the commissioner, such records as may be required by this article or rules and regulations promulgated pursuant thereto, and shall make such reports to the commissioner as may be required thereby.

7. The governing body of any municipality in which licenses are issued, may, either individually or in cooperation with other municipal entities, require its dog control officer or animal control officer or any other authorized agent to ascertain and list the names of all persons in the municipality owning or harboring dogs, or in lieu thereof, such municipality may contract to have the same done.

S 115. Pounds and shelters. 1. Each town and city, and each village in which licenses are issued shall, and any other village and any county may, establish and maintain a pound or shelter for dogs.

2. In lieu of or in addition to establishing and maintaining such pound or shelter, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for pound or shelter services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall establish and maintain, jointly or with one or more other municipalities, a pound or shelter.

S 116. Funds expended by municipality for services. No municipality shall be required to expend in any calendar year for dog control officer and pound or shelter services undertaken pursuant to this article, an amount of money greater than it receives during such year pursuant to this article and any local law or ordinance enacted pursuant thereto.

S 117. Spaying and neutering facilities authorized. 1. Any municipality may, by local law or ordinance, provide for the establishment and operation of a facility to provide services for the alteration of the reproductive capacity through spaying or neutering of dogs and cats owned by the residents thereof.

2. Any animal which is presented at such facility for alteration must be accompanied by a notarized authorization signed by the owner thereof consenting to such alteration and agreeing to hold the municipality, its agents, servants and employees harmless for any damages arising therefrom or incidental thereto.

3. Any municipality enacting a local law or ordinance as authorized by this section shall further provide for the regulation of such facility with respect to the terms and conditions, including compensation, under which any animal will be maintained while the animal remains in the custody of the facility.

4. In no event shall any of the moneys or fees derived from, or collected pursuant to, the provisions of this article except as provided in paragraph c of subdivision four of section one hundred ten of this article and section one hundred seventeen-a of this article be used to subsidize the spaying or neutering of cats.

S 117-a. Animal population control program. 1. The department shall establish and implement an animal population control program. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision two of this section. The department shall use its best efforts to encourage every adoption facility that qualifies for participation in the low-cost spay-neuter program to do so to the maximum possible extent.

2. In order to be eligible to participate in the animal population control program, and therefore, be entitled to the low-cost spay/neuter services provided for herein, an owner of a dog or cat shall be a resident of New York state and shall submit proof to a veterinarian participating in the program in the form of an adoption agreement that their dog or cat was adopted from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association.

2-a. Notwithstanding the provisions of subdivision two of this section, no resident shall be entitled to participate in the low cost spay/neuter program implemented by this section if the animal to be spayed or neutered:

- (a) was imported or caused to be imported from outside the state;
- (b) was adopted from an otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association which included the cost of a spaying or neutering procedure in the cost of the adoption;
- (c) was spayed or neutered by an otherwise eligible veterinarian who is employed by otherwise qualifying pounds, shelters, duly incorporated societies for the prevention of cruelty to animals, humane societies or dog or cat protective associations except to the extent that they shall have performed spay/neuter procedures in excess of the number of such procedures done upon animals adopted from such facility during nineteen hundred ninety-four; or
- (d) was adopted from any facility that as a condition of adoption, required or encouraged the utilization of a specific veterinarian or veterinary facility to perform such spay or neuter procedure. The establishment of such conditions by a facility shall constitute grounds for the disqualification of such facility to participate in the program. Nothing contained in this section shall be construed as precluding a facility from informing a person adopting an animal of the identity of those participating veterinarians in the vicinity of such facility in addition to providing them with the voucher provided under this section and any accompanying materials.

3. Any person submitting a dog or cat for spaying or neutering pursuant to the provisions of this section shall:

- (a) Furnish any licensed veterinarian of this state participating in the program with proof that the owner meets the eligibility criteria pursuant to the provisions of subdivisions two and two-a of this section;
- (b) Sign a consent form certifying that the person is the owner of the dog or cat or is authorized by the owner to present the dog or cat for the procedure;
- (c) Pay a fee of thirty dollars to the veterinarian participating in the program.

4. (a) Any licensed veterinarian of this state including, but not limited to, licensed veterinarians working at municipal facilities which

provide dog and cat spaying and neutering services, other than with respect to animals who would not be eligible pursuant to subdivision two-a of this section may participate in the program upon filing with the commissioner an application therefor, on forms prescribed by the commissioner, which application shall certify, in addition to any other information requested by the commissioner, an animal sterilization fee schedule listing the fees charged for spaying and neutering in the normal course of business and for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies, or if deemed necessary for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be on the first day of January two thousand one and the first day of January each third year thereafter and the number of spay/neuter procedures done by such facility during such period. Additionally, such licensed veterinarian shall certify that the fees charged for procedures and vaccinations for which reimbursement is sought are equal to or less than the lowest fees charged to a private client for such procedures during the previous year. The veterinarian shall also provide the name of the veterinarian, animal hospital, veterinary clinic or other entity to which such reimbursement is to be made. These fees may vary with the animal's weight, sex and species. The commissioner may, however, disqualify from participation in the program any veterinarian whose fees are deemed unreasonable. Nothing contained in this subdivision shall limit the right of the state education department to undertake such actions as it may deem necessary to enforce the provisions of article one hundred thirty-five of the education law.

(b) Licensed veterinarians of this state participating in the program shall provide, if deemed necessary, for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies, or if deemed necessary, for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be. Charges for such services to the owner or person submitting the dog or cat for spaying or neutering shall be no more than fifty percent of the amount certified pursuant to paragraph (a) of this subdivision. In addition to other reimbursement to which a licensed veterinarian may be entitled under this section, a veterinarian may seek reimbursement for expenses incurred as a direct result of extraordinary circumstances which occurred during the course of a spay/neuter procedure up to an amount approved by the department which shall not exceed twenty percent of such veterinarian's fee for performing such procedure.

(c) The state comptroller upon the submission of vouchers by the commissioner shall, to the extent that monies are available from the animal population control fund, reimburse participating veterinarians for eighty percent of the balance of the fee charged pursuant to paragraph (a) of this subdivision, and after deducting that portion of the fee already paid to the veterinarian by those persons participating in the program pursuant to paragraph (c) of subdivision three of this section, for each animal spaying and neutering procedure administered after the submission to the commissioner of an animal sterilization certificate, prescribed by the commissioner, signed by the veterinarian and the owner of the animal or person authorized by the owner, for each spaying and neutering procedure performed in conjunction with the animal population control program. Notwithstanding the foregoing provisions, the state comptroller shall not reimburse veterinarians for any voucher which shall have been issued by the commissioner more than one year prior to the date upon which it is submitted to the commissioner unless the commissioner shall indicate good cause for the payment of such voucher. If the moneys are not immediately available from such fund, the

commissioner shall give priority to approving reimbursement to participating veterinarians from counties from which the amount of fees deposited in such fund, after taking into consideration the administrative expenses to which the department is entitled, exceeds the money paid out to participating veterinarians in such counties. The participating veterinarian shall submit to the commissioner within sixty days of each animal spaying and neutering procedure an animal sterilization certificate for the purposes of reimbursement.

Notwithstanding the provisions of this paragraph, the commissioner shall not approve reimbursement to municipal facilities, not-for-profit organizations, pounds, shelters, duly incorporated societies for the prevention of cruelty to animals, humane societies or dog or cat protective associations except to the extent that they shall have performed spay/neuter procedures in excess of the number of such procedures done by it during nineteen hundred ninety-four.

5. The commissioner may solicit and accept funds from any public or private source to help carry out the provisions of this section.

6. All fees collected pursuant to this section and paragraph c of subdivision four of section one hundred ten of this article shall be deposited in a miscellaneous special revenue fund known as the animal population control fund. An amount not to exceed fifteen percent of the balance of the fund at the beginning of each fiscal year, following appropriation by the legislature and allocation by the director of the budget, shall be available for the purposes of implementation and promotion of the program. Such promotion shall include educating the public about the benefits associated with spaying and neutering. The remaining monies shall be used exclusively for the reimbursement to participating veterinarians pursuant to paragraph (b) of subdivision four of this section.

7. The commissioner shall, in consultation with such professional organizations as the commissioner deems appropriate, develop a list of veterinarians approved by the commissioner to participate in the low-cost spay/neuter program who provide care, including, but not limited to, spay/neuter procedures, to dogs and cats. Any otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society, or dog or cat protective association shall distribute such list of approved veterinarians to persons adopting a dog or a cat as a precondition to reimbursement under the low-cost spay/neuter program established in this section. In addition to such distribution, such pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association shall not discriminate against any veterinarian on such list or directly or indirectly require, direct or recommend the utilization or non-utilization of any such veterinarian for any procedure for which reimbursement is to be sought under this program. Such discrimination may, in the discretion of the commissioner, constitute grounds for the revocation of the right of such facility to participate in the program.

S 118. Seizure of dogs; redemption periods; impoundment fees; adoption. 1. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality shall seize:

(a) any dog which is not identified and which is not on the owner's premises; and

(b) any dog which is not licensed, whether on or off the owner's premises.

(c) 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.

(d) any dog which poses an immediate threat to the public safety.

Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision four of section one hundred twenty-one of this article.

2. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality may seize any dog in violation of any local law or ordinance relating to the control of dogs, adopted by any municipality pursuant to the provisions of this article.

3. Each dog seized in accordance with the provisions of this article shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

4. 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 the provisions of this article and further provided that the owner pays the following impoundment fees:

(a) ten dollars for the first impoundment of any dog owned by that person;

(b) twenty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or

(c) thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

5. All impoundment fees shall be the property of the municipality to which they are paid 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 and any facility as authorized under section one hundred seventeen of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

6. 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 four of this section and by producing proof that the dog has been licensed.

7. 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 subdivisions two-a, two-b, two-c, two-d, and two-e of section three hundred seventy-four of this chapter. Provided that no dog in the custody of a pound or shelter shall be delivered for adoption unless it has been licensed pursuant to the provisions of this article prior to its release from the custody of a pound or shelter. Any municipality may by local law or ordinance establish additional conditions for adoption

including the requirement that adopted dogs shall be spayed or neutered before or after release from custody upon such terms and conditions as the municipality may establish.

7-a. Any dog or cat in the custody of a pound or shelter shall be made available for adoption or euthanized subject to the provisions of subdivisions two-a, two-b, two-c, two-d, and two-e of section three hundred seventy-four of this chapter after the time for redemption has expired.

8. The redemption periods set forth above in this section notwithstanding, any municipality may establish the duration of such periods by local law or ordinance, provided that no such period shall be less than three days, except that where notice to the owner is given by mail, no such period shall be less than seven days.

9. Any dog, owned by a resident of any city having a population of over two million or by a non-resident of this state, seized and impounded pursuant to the provisions of this article, and whose owner can be identified, shall be subject to subdivision six of this section. If the dog is licensed pursuant to the provisions of law of the area of the owner's residence, the licensing requirements of this article shall not apply provided such dog is not harbored within this state outside any city having a population of over two million for a period exceeding thirty days.

10. The seizure of any dog shall not relieve any person from any violation provided for by section one hundred nineteen of this article.

11. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this article.

S 119. Violations. 1. It shall be a violation, punishable as provided in subdivision two of this section, for:

- (a) any owner to fail to license any dog;
- (b) any owner to fail to have any dog identified as required by this article;
- (c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag;
- (d) any owner of any dangerous dog to fail to confine or destroy such dog upon order of any judge or justice as provided in section one hundred twenty-one of this article;
- (e) any owner to fail to securely confine any dog as required by an order issued pursuant to section one hundred twenty-two or one hundred twenty-three of this article;
- (f) any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;
- (g) any person to furnish any false or misleading information on any form required to be filed with any municipality or the commissioner pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto;
- (h) the owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog.

2. It shall be the duty of the dog control officer of any municipality to bring an action against any person who has committed within such municipality any violation set forth in subdivision one of this section. Any municipality may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.

A violation of this section shall be punishable, subject to such an election, either:

(a) where prosecuted pursuant to the penal law, by a fine of not more than twenty-five dollars, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may be not more than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than fifteen days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not more than twenty-five dollars, except that (i) when the person was found to have violated this section or former article seven of this chapter within the preceding five years, the civil penalty may be not more than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not more than one hundred dollars.

3. A defendant charged with a violation of any provision of this article or any local law or ordinance promulgated pursuant thereto may himself plead guilty to the charge in open court. He may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he waives arraignment in open court and the aid of counsel, (b) that he pleads guilty to the offense charged, (c) that he elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he desires to make concerning the offense charged, and (e) that he makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

4. Any person who shall violate any other provision of this article or rules and regulations promulgated pursuant thereto shall be subject to the penalty provisions of sections thirty-nine and forty of this chapter, but not section forty-one of this chapter. Such violations shall include, but not be limited to, the following:

(a) failure of any owner of record to notify the commissioner of any change of ownership or address as required by section one hundred thirteen of this article;

(b) failure of any person to perform any other duty or carry out any other requirement imposed pursuant to the provisions of this article or the rules and regulations promulgated pursuant thereto. Each day that failure continues shall constitute a separate violation.

5. For the purpose of participating in the "animal population control program" established under section one hundred seventeen-a of this article, it shall be a violation punishable as provided in subdivision six of this section, for:

(a) any person to falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association;

(b) any person to furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure pursuant to section one hundred seventeen-a of this article;

(c) any licensed veterinarian to furnish the commissioner with false

information concerning an animal sterilization fee schedule or an animal sterilization certificate submitted pursuant to subdivision four of section one hundred seventeen-a of this article.

6. Any person or veterinarian who violates the provisions of subdivision five of this section or any rule or regulation promulgated by the commissioner to carry out the provisions of section one hundred seventeen-a of this article shall be subject to a fine of not more than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

7. Any person who intentionally refuses, withholds, or denies a person, because they are accompanied by an on-duty police work dog, working search, war, or detection dog as defined in section one hundred eight of this article, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to two hundred dollars for the first violation and up to four hundred dollars for each subsequent violation.

S 120. Disposition of fines. Notwithstanding any other provision of law, all moneys collected as fines or penalties by any municipality as a result of any prosecution for violations of the provisions of this article or any local law or ordinance and all bail forfeitures by persons charged with such violations shall be the property of the municipality and shall be paid to the financial officer of such municipality. Such moneys 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 and any facility as authorized under section one hundred seventeen of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

S 121. Dangerous dogs. 1. If any dog shall attack any person who is peaceably conducting himself in any place where he may lawfully be, such person or any other person witnessing the attack may destroy such dog while so attacking or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction.

2. (a) If any dog shall attack, chase or worry any domestic animal, as defined in section one hundred eight of this article, while such animal is in any place where it may lawfully be, the owner or caretaker of such domestic animal, or any other person witnessing such attack may, for the purpose of preventing the killing or injury of such domestic animal, destroy such dog while so attacking, chasing, worrying or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction.

(b) If any dog shall attack and injure any service dog, guide dog or hearing dog, any person witnessing the attack may for the purpose of preventing the killing or injury of such service dog, guide dog or hearing dog, destroy such attacking dog and no liability in damages or otherwise shall be incurred on account of such destruction.

3. Any person may make a complaint of an attack upon a person or of an attack, chasing or worrying of a domestic animal to a dog control officer of the appropriate municipality. Such officer shall immediately inform the complainant of his right to commence a proceeding as provided in subdivision four of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself.

4. Any person may, and any dog control officer as provided in subdivision three hereof shall, make a complaint under oath or

affirmation to any municipal judge or justice of such attack, chasing or worrying. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any dog control officer, peace officer, acting pursuant to his special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as herein provided. Whether or not the judge or justice finds there is probable cause for such seizure, he shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. If satisfied that the dog is a dangerous dog, the judge or justice shall then order any dog control officer, peace officer, acting pursuant to his special duties, or police officer to cause the dog to be euthanized immediately, or shall order the owner to confine securely such dog permanently except as provided in subdivision six of this section. The owner shall confine the dog indoors or in an enclosed and locked pen or structure as provided for in the order. Such pen or enclosure shall have a secure top and sides and shall be designed to prevent an unauthorized entry of a person, the escape of the dog and to provide protection from the elements. If the owner fails to confine the dog as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall destroy such dog on or off the premises of the owner.

5. A dog shall not be declared dangerous if the court determines the conduct of the dog (a) was justified because the threat, injury or damage was sustained by a person who at the time was committing a crime or offense upon the owner or custodian or upon the property of the owner or custodian of the dog, or (b) was justified because the injured person was tormenting, abusing or assaulting the dog or has in the past tormented, abused or assaulted the dog; or (c) was responding to pain or injury, or was protecting itself, its kennels or its offspring.

6. (a) In addition to an order of confinement, issued pursuant to subdivision four of this section, the judge or justice may order the owner or custodian to securely chain and muzzle the dog and require that the dog be under physical restraint of a responsible person when (i) confined in the presence of persons other than the owner or custodian, and (ii) outside such enclosure for brief periods only when and for the period necessary to urinate, defecate or receive medical treatment.

(b) The muzzle described in paragraph (a) of this subdivision shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

7. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person, service dog, guide dog or hearing dog causing physical injury shall be subject to a civil penalty not to exceed four hundred dollars in addition to any other applicable penalties.

8. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person causing serious physical injury shall be subject to a civil penalty not to exceed eight hundred dollars in addition to any other applicable penalties.

9. The owner of a dog who, through any act or omission, negligently permits his or her dog, which had previously been determined to be dangerous pursuant to this article, to bite a person causing serious physical injury, shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or by a period of imprisonment not to exceed ninety days, or by both such fine and imprisonment in addition to any other applicable penalties.

10. If any dog, which had previously been determined by a judge or justice to be a dangerous dog, as defined in section one hundred eight

of this article, shall without justification kill or cause the death of any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, regardless of whether such dog escapes without fault of the owner, the owner shall be guilty of a class A misdemeanor in addition to any other penalties.

11. The owner shall not be liable pursuant to subdivision seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in subdivision one or two of section 130.35 of the penal law, sodomy in the first degree as defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

12. Nothing contained herein shall limit or abrogate any claim or cause of action any person who is injured by a dog with a vicious disposition or a vicious propensity may have under common law or by statute. The provisions of this section shall be in addition to such common law and statutory remedies.

13. Nothing contained herein shall restrict the rights and powers derived from the provisions of title four of article twenty-one of the public health law relating to rabies and any rule and regulation adopted pursuant thereto.

S 122. Protection of deer. 1. Whenever the governing body of any municipality shall determine that the deer population in the municipality or part thereof is suffering severe depredation due to dogs attacking, chasing or worrying deer, such governing body may by order require that all dogs in such municipality or part thereof shall be securely confined during the period of time designated in the order or, if no time is designated, until the order is revoked.

2. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order. Such order shall be in full force and effect at the expiration of twenty-four hours following publication of such notice.

3. If any dog is not confined as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize such dog. Any dog so seized shall be subject to the provisions of section one hundred eighteen of this article. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

4. If any dog, which is not confined as required by such order, shall attack, chase or worry any deer, any dog control officer, peace officer, acting pursuant to his special duties, or police officer upon witnessing the same, shall destroy, or seize and destroy, such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

5. If any dog shall kill or cripple any deer, the owner shall be subject to a civil penalty in the amount of one hundred dollars for the first deer killed or crippled by the dog or by the pack of dogs, if any, of which the dog was a member, and in the amount of one hundred fifty dollars for each additional deer killed or crippled, to be recovered in an action brought by the commissioner of environmental conservation on behalf of the people of the state of New York.

6. This section and any order issued pursuant thereto shall not apply to dogs in special dog training areas or shooting preserves enclosed and licensed pursuant to the provisions of the environmental conservation

law, while such dogs are under the control of the owner or trainer.

S 123. Night quarantine. 1. The governing body of any municipality may at any time by order require that all dogs in such municipality shall be securely confined between sunset and one hour after sunrise during the period of time designated in the order, or, if no time is so designated, until the order is revoked.

2. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order.

3. Any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall destroy or seize any dog not confined as required by such order, and no liability in damages or otherwise shall be incurred on account of such destruction or seizure. Any dog so seized shall be subject to the provisions of section one hundred eighteen of this article. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

S 124. Local laws or ordinances. 1. Any municipality may enact a local law or ordinance upon the keeping or running at large of dogs and the seizure thereof, provided no municipality shall vary, modify, enlarge or restrict the provisions of this article relating to identification, licensing, rabies vaccination and euthanization.

2. Such local law or ordinance may:

(a) impose penalties for violation of such restrictions to be recovered in a civil action in the name of such municipality;

(b) provide for enforcement by fine or imprisonment for any such violation; or

(c) provide for the issuance pursuant to the criminal procedure law of an appearance ticket, or in lieu thereof, a uniform appearance ticket, or in lieu thereof, a uniform appearance ticket and simplified information, as provided in section one hundred fourteen of this article, by any dog control officer, peace officer, acting pursuant to his special duties, or police officer, who is authorized by any municipality to assist in the enforcement of this article for any such violation.

S 125. Indemnification for dog damage. 1. Each county shall be liable for damage done within the county by dogs to domestic animals, including such veterinary fees and costs as may arise from such damage or injury. Indemnification therefor shall be made in the manner provided by this section. Such indemnification shall not exceed the actual damage. In no event shall indemnification exceed:

(a) eight hundred dollars for each animal, in the case of horses or cattle;

(b) fifteen dollars for each domesticated fowl, duck, goose, swan, turkey, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, and confined domestic hare or rabbit;

(c) one hundred dollars for any other domestic animal as defined in this article;

(d) twelve hundred dollars for each animal, in the case of registered purebred dairy and beef cattle or of purebred dairy and beef cattle eligible for registration and less than one year of age;

(e) two hundred fifty dollars for each animal, in the case of each registered purebred sheep, goat or swine, or of purebred sheep, goat or swine eligible for registration and less than one year of age;

(f) three hundred fifty dollars for each fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation or each llama.

2. No indemnification shall be paid for fowl of the varieties commonly used for cock fights.

3. The name of the owner of the dog causing the damage, if known, shall be reported to the financial officer of the county and such owner shall be liable to the county in reimbursement for any amounts paid by the county for such indemnification, in an action to be brought in the name of the county by the financial officer of the county or the county dog control officer in a court of competent jurisdiction.

4. The owner of a domestic animal injured or killed as a result of being attacked, chased or worried by any dog shall, immediately upon the discovery of such injury or death, notify the nearest assessor of the city or town where the damage was done of the fact of such injury or death, and that the owner claims indemnity therefor and requires that the damage be determined. The assessor or any other individual designated in writing by the governing body of the city or town shall immediately inquire into the matter and shall examine the animal injured or killed and, if he deems it necessary, shall examine witnesses in relation thereto. If the assessor or designated individual is satisfied that the injuring or killing of the animal was caused by a dog, and that the owner of the animal had taken reasonable precautions to prevent the damage done, the assessor or designated individual shall determine the amount of the damage apparent at the time and make a report of the amount of damages. Provided, however, that if the amount of damage is determined by the assessor or designated individual to be more than four hundred dollars, the assessor or designated individual shall immediately give notice of the claim to all the other assessors or designated individuals, if any, of the city or town, or a majority of them, who shall, within three days, inquire into the matter and make a report in the manner provided above. The report shall be promptly filed with the financial officer of the county and the commissioner, and a copy provided to the claimant.

5. The governing body of any county may establish by local law a procedure for reviewing the decision of the assessor or designated individual. If a procedure has been established, the claimant or financial officer of the county may, within twenty days after the receipt of the report of any assessor or designated individual, if dissatisfied with the amount of the damages stated therein, request a review pursuant to the procedure established by the governing body of the county. The decision after review shall be in writing and copies thereof shall be mailed to the financial officer of the county, the claimant and the commissioner.

6. In the event that the county shall not have established a procedure for review of the decision such review shall be made by the commissioner. Upon receipt of such request, the commissioner shall cause an investigation to be made of the alleged attack upon the claimant's domestic animal, the facts surrounding such attack, and the amount of damage incurred thereby for which indemnification should be made in accordance with the intent of this section. The claimant shall permit the commissioner or his authorized representative to enter the premises on which the attack is alleged to have been made and shall furnish to the commissioner or his representative whatever information and proof may be available to the claimant and may be deemed necessary by the commissioner or his representative to complete the investigation. Upon completion of the investigation, the commissioner shall decide whether the attack was in fact made by a dog upon a domestic animal, as defined in section one hundred eight of this article, and whether the owner had

taken reasonable precautions to prevent the damage done and, if he so finds, shall either confirm or deny the determination of the assessor or designated individual, or modify it as may appear proper and adequate in view of the facts. The decision of the commissioner shall be in writing, and copies thereof shall be mailed to the financial officer of the county and the claimant.

7. After the expiration of twenty days from the filing of the assessor's or designated individual's report with the financial officer of the county, such officer shall mail to the claimant a certificate of indemnity due to the claimant, provided however, that in those counties where a review procedure has been established and a request for a review has been presented, such certificate shall be mailed to the claimant upon the filing of a copy of the decision, after review, with the county financial officer. The financial officer shall retain a copy of the certificate and shall mail a copy to the commissioner.

8. If, subsequent to the determination of damage, it develops that damage, which was not apparent at the time of determination, was caused to any domestic animal, a supplemental notice of claim for such damage shall be promptly given by the claimant upon discovery thereof to the assessor at any time within six months after the discovery of the original damage. Such notice shall set forth the facts upon which the additional claim was based. The same proceedings shall thereupon be had as upon the original claim.

9. The amount of the damage determined as hereinbefore provided shall be paid by the financial officer of the county to the claimant, upon presentation of the aforesaid certificate, from the funds received by such officer pursuant to section one hundred eleven of this article, and if such funds shall be insufficient therefor, then from such other funds as shall be raised by the county governing body, in the manner that funds are raised to pay other county charges.

- S 126. Duties and powers of commissioner. 1. The commissioner shall:
- (a) supervise the enforcement of this article;
 - (b) maintain a central registry of official identification numbers;
 - (c) prescribe the form of all notices, reports and other papers and documents required by this article and the rules and regulations promulgated pursuant thereto; and
 - (d) prescribe the manner in which all reports required by this article and the rules or regulations promulgated thereto are to be filed and maintained, and all licenses issued or validated; and
 - (e) furnish all forms and other supplies, including identification tags and preprinted license applications, necessary for the implementation and enforcement of this article and the rules and regulations promulgated pursuant thereto; and
 - (f) supply, for identification purposes, names and addresses of owners of record of identified dogs immediately upon request; and
 - (g) furnish such information and assistance to dog control officers as he deems necessary for enforcement purposes.
2. The commissioner is hereby authorized to:
- (a) promulgate, after public hearing, such rules and regulations as are necessary to supplement and give full effect to the provisions of this article; and
 - (b) exercise all other powers and functions as are necessary to carry out the duties and purposes set forth in this article.

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