

Town of Newfield Regular Town Board Meeting

December 9, 2010

The regular meeting of the Newfield Town Board was called to order by Supervisor Driscoll at 7:00PM. Present: CP hart, CP James, CP Laughlin, CP Dolge and Supervisor Driscoll. Also present: Town Attorney Edward Hooks, County Legislator Dave McKenna and Code Enforcer Harry Wright

The meeting was opened with the Pledge of Allegiance led by Supervisor Driscoll.

Motion was made by CP Laughlin to approve the Minutes of the November 11, 2010 Board Meeting. Motion was seconded by CP Hart. CP Dolge abstained from the vote due to his being absent for that meeting. Motion carried.

PRIVILEGE OF THE FLOOR -

NEW BUSINESS

Supervisor Driscoll reviewed the November Financial Report. All looks good and there is nothing significant to report.

A discussion was held regarding the proposed Local Law Number 1-2010. Motion was made by CP Dolge to approve Local Law Number 1-2010. Motion was seconded by CP Laughlin.

Local Law # 1 for the Year 2010

Licensing, Identification & Control of Dogs in the Town of Newfield

Section 1. Title. The title of this Local Law shall be, "Licensing, Identification, and Control of Dogs in the Town of Newfield."

Section 2. Authority. This Local Law is adopted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York.

Section 3. Purpose. The purpose of this Local Law is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, and other animals from dog attack and damage.

Section 4. Application.

1. This Local Law shall apply to all areas of the Town of Newfield. It shall supersede and replace Local Law #1 for the year 1979 ("Dog Control Law") and any prior duly enacted amendments thereto.
2. In the event that any dog owned by a non-resident of the Town of Newfield is harbored within the Town for a period of 30 days or less such
3. dog shall be exempt from the identification and licensing provisions of this Local Law provided such dog is licensed pursuant to the provisions of law in the area of residence.
4. This Local Law 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 to an animal shelter devoted to the impounding and caring of animals.

Section 5. Definitions. As used in this Local Law, the following words shall mean:

1. "Altered" shall refer to a dog that has been spayed or neutered.
2. "At large" means an unleashed dog not under control of the owner and off the premises of the owner
3. "Companion animal" means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Companion animal" shall not include a "domestic animal" as defined in this Section.
4. "Dangerous dog" means any dog which
 - a. without justification attacks a person, companion animal, farm animal, or domestic animal as defined in this section and causes physical injury or death, or
 - b. behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or
 - c. without justification attacks a "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog" and causes physical injury or death.
 - d. "Dangerous dog" does not include a "Police Work Dog", while being used to assist one or more law enforcement officers in the performance of their official duties.
5. "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, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.
6. "Dog" means any member of the species canis familiaris.
7. "Dog Control Officer" means any individual appointed by the Town to assist in the implementation and enforcement of this Local Law or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town to assist in the enforcement of this Local Law.
8. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the New York State 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 New York 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 Local law.

9. "Farm animal", as used in this Local Law, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in New York State Environmental Conservation Law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.

"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 of New York

10. during the period such dog is being trained or bred for such purpose.

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

12. "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 of New York during the period such dog is being trained or bred for such purpose.

13. "Identification tag" means a tag issued by the Town of Newfield or other licensing municipality which sets forth an identification number, together with the name of the municipality, the State of New York, contact information, including telephone number for the municipality, and such other information as the licensing municipality deems appropriate.

14. "Identified dog" means any dog carrying an identification tag.

15. "Municipality" means any county, town, city or village.

16. "New York State Agriculture and Markets Law" means the Agriculture and Markets Law of the State of New York in effect as of the effective date of January 1, 2011 and as amended thereafter.

17. "Owner" means any person who harbors or keeps any dog. If a dog is not licensed, the term of "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any animal which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this Local Law shall be held and deemed to be the owner of such dog for the purpose of this Local Law. In the event any dog found to be in violation of this Local Law shall be owned by a minor (under 18 years of age), the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog and violation of this Local Law.

18. "Owner of record" means the person purchasing the license or in whose name any dog was last licensed. An owner of record shall be 18 years of age or older.
19. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.
20. "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.
21. "Purebred Dog" means a dog registered by a nationally recognized registry association.
22. "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 of Agriculture.
23. "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.
24. "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.
25. "Tompkins County Working dog" shall refer to any "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog" as defined by this Local Law and Article 7 of New York State Agriculture & Markets Law, and is duly licensed any licensing municipality within Tompkins County, New York and wearing a Tompkins County Working Dog tag.
26. "Town" means the area within the corporate limits of the Town of Newfield. "Town Board" means the Town of Newfield Board.
27. "Town Clerk" means the Newfield Town Clerk.
28. "Unaltered" shall refer to any dog that is not spayed or neutered.
29. "War dog" means any dog which has been honorably discharged from the United States armed services.
30. "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose.
31. To the extent not defined herein and in addition thereto, the terms defined under Section 108 of the Agriculture and Markets Law (as the same may be amended from time-to-time) shall have the meanings described therein.

Section 6. Licensing.

1. Application for Original License.
 - a. The owner of any dog reaching the age of four months shall immediately make application to the Town Clerk for a dog license on a form provided by the Town Clerk's Office. No license shall be required for any dog which is under the age of four months and which is not at large, or any dog that is residing in a pound or shelter maintained by or under contract or agreement with the State of New York or any county, city, town or village, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective association.
 - b. In the case of an unlicensed dog being redeemed by the owner or a dog being adopted from a shelter or pound the Town Clerk and the manager of the facility shall establish a licensing procedure that is agreeable and beneficial to both the Town of Newfield and the shelter or pound.
2. Rabies Vaccination Required. All applications for a dog license shall be accompanied by a valid rabies certificate signed by a licensed veterinarian or, in lieu thereof, a statement certified by a licensed veterinarian stating that the dog is too young to be vaccinated or because of old age or another reason, the life of the dog would be endangered by the administration of vaccine. A copy of the rabies certificate or certified statement shall be made and attached to the Clerk's copy of the application. In the case of an unlicensed dog being redeemed by the owner or a dog being adopted from a shelter copies shall be forwarded to the Town Clerk. Such records shall be kept on file by the Town Clerk and be made available upon request for rabies and other animal disease control efforts.
3. Spay/Neuter Certificates. In the case of a spayed or neutered dog, every application shall 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. 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 Part 7 of this Section.

License. Upon receiving a complete application, the required documents and the fee, the Town Clerk shall issue a license and tag. The Town Clerk's copy shall be kept on file in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration or such other or different means as may at any time be Town of Newfield

4. prescribed by the State of New York for such purpose.
5. Expiration of License. An original license shall be issued for a period of one year, and shall expire on the last day of the month one year from the date of issue.
6. License Renewal.
 - c. License renewal forms shall be mailed by the Town Clerk.
 - d. A new rabies certificate shall be required if the one on record has expired or expires within 30 days of the date of renewal. An in-lieu-of statement as described in Part 2 of this Section may be substituted for a rabies certificate. New rabies certificates and statements shall be copied and attached to the Town Clerk's copy of the renewal.
 - e. A spay/neuter certificate shall not be required if one is already on file with the Town Clerk. In a case where the dog has been altered during the preceding year, the certificate shall be presented to the Town Clerk in order to receive the reduced fee for an altered dog. The Town Clerk shall make a copy of the certificate and attach it to the original license on file.
 - f. The renewal shall expire on the last day of the month in the same month that it was originally issued. (i.e., a license originally issued in January will always expire in January.)
 - g. Renewing early or late, does not change the renewal month. However, owners having more than one dog may request common renewal dates for their licenses, which may be granted at the discretion of the Town Clerk, provided that all other New York State and local licensing and renewal requirements are satisfied. No licensing fees will be prorated, refunded, or waived when accommodating such a request.
 - h. Upon renewal the Town Clerk shall provide a validated license to the owner. The Clerk's copy shall be kept on file in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration or such other or different means as may at any time be prescribed by the State of New York for such purpose.
7. License Fees.
 - i. Pursuant to this Local Law, the Town Board of the Town of Newfield is authorized to establish by resolution, a schedule of fees pertaining to the licensing, identification and enumeration of dogs. The Town Board may amend the fee schedule by resolution from time to time as it deems appropriate. The most current fee schedule will be kept on file in the office of the Newfield Town Clerk for public inspection.

- j. All applications for original licenses or renewals shall be accompanied by a fee established by resolution of the Newfield Town Board.
 - k. All revenue derived from such fees shall be the sole property of the Town of Newfield and shall be used only for controlling dogs and enforcing this Local Law and Article 7 of New York State Agriculture and Markets Law. Said revenue may also be used to subsidize the spaying or neutering of dogs, to subsidize any facility as authorized under Article 7 of New York State Agriculture and Markets Law, and to subsidize public humane education programs related to responsible dog ownership.
 - l. In no event shall any money derived from license fees be used to subsidize the spaying or neutering of cats or animals other than dogs.
 - m. No license fees are refundable or partially refundable in the event that a dog is lost, stolen, sold, given away, surrendered or deceased before the expiration of the license.
 - n. An additional fee may be established by resolution of the Newfield Town Board should a dog be identified as unlicensed during an enumeration. Such additional fee shall be the property of the Town of Newfield and shall be used to pay the expenses incurred while conducting the enumeration. In the event the additional fees collected exceed the expenses incurred, such excess fees may be used for enforcing this Local Law and for spaying or neutering dogs.
 - o. In addition to the fees set by the Town Board, an additional New York State Spay/Neuter Surcharge shall be assessed for the purpose of carrying out population control efforts as mandated by Article 7 of New York State Agriculture and Markets Law (currently codified as Section 117-a thereof). Money derived from such additional assessment may be used to subsidize the spaying and neutering of cats as well as dogs pursuant to Article 7 of New York State Agriculture and Markets Law.
8. Exemptions to License Fees. Licenses for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog shall be exempt from license fees. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as may be appropriate, by the Town Clerk. Pursuant to Article 7 of New York State Agriculture and Markets Law, said dogs are not exempt from the mandated population control fee.
9. Identification of dogs.
- a. When a dog is originally licensed, a Town of Newfield identification number will assigned and an identification tag shall be issued, which shall be

worn by the dog at all times.

- b. Existing New York State Agriculture and Markets dog licenses being renewed or transferred in from another municipality shall be assigned a Town of Newfield identification number and an identification tag shall be issued. The New York State Agriculture and Markets tag or other municipality's tag shall be discarded and the Town of Newfield tag shall be worn by the dog at all times.
 - c. A dog participating in a dog show is exempted from wearing an identification tag only for the duration of the show.
 - d. No identification tag shall be affixed to the collar of any dog other than the dog to which it was assigned.
 - e. Any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog shall be issued a Town of Newfield identification tag and a Tompkins County Working Dog tag. Both tags shall be worn by the dog at all times.
 - f. Lost tags shall be replaced at the expense of the owner at a fee set by the Newfield Town Board.
9. Change of Address. When there is a change of address for the owner of record, the owner shall notify the Town Clerk's Office of such change. If the change is still within the Town of Newfield, the Town Clerk will make the appropriate updates to the dog license record. If the change is located outside the Town of Newfield, the Town Clerk shall make a note in the record and cancel the license. The Clerk shall forward a copy of the license to the Clerk of the municipality to which the owner has moved, informing said Clerk that the dog now resides in their municipality.
10. Change of Ownership. In the event of a change in the ownership of any dog licensed in the Town of Newfield, the new owner shall immediately make application for a license for such dog. Additionally, the original owner of record shall notify the Town Clerk's Office of the change of ownership. Such original owner of record shall be liable for any violation under this Local Law until such filing is made or until the dog is licensed in the name of the new owner.
11. Lost, Stolen or Deceased Dog. If any dog which has been licensed in the Town of Newfield is lost, stolen or deceased, the owner of record shall notify the Town Clerk's Office with reasonable promptness.
12. Lists of Licensed Dog Owners. No dog licensing records, information, or lists shall be made available to any person or company for commercial purposes.
13. Purebred Licenses.
- Purebred Licenses are offered in the Town of Newfield as an alternative to individual dog licenses for owners actively involved in the

breeding and sale of purebred dogs.

- q. To qualify for a Purebred License, a person must own five or more purebred dogs and at least five of those dogs must be unaltered.
- r. At the time of application, the Town Clerk shall assign a Purebred License identification number.
- s. Application for a purebred license shall be on a form provided by the Town Clerk and shall include rabies vaccination certification as specified in Part 2 of this Section for every dog listed on the license, a copy of which shall be kept on file by the Town Clerk.
- t. Copies of registry papers for every dog or a comprehensive list of registry numbers and associations shall be required and filed with the Clerk's copy of the license.
- u. All dogs over four months of age must be listed and included in the purebred license.
- v. Purebred licenses shall be issued for one year and renewed annually.
- w. All applications for and renewals of purebred licenses shall be accompanied by a fee as set by resolution of the Town Board. In addition, an assessment of \$3.00 for each dog unaltered dog and \$1.00 for each altered dog shall be added for the purpose of carrying out animal population control efforts as mandated by Article 7 of New York State Agriculture and Markets Law. No fee or portion thereof shall be refundable once the license is issued.
- x. The Town Clerk may request that the Dog Control Officer verify the number of dogs being claimed on any purebred license.
- y. No purebred license is transferable. Upon change of ownership of any dog licensed under a purebred license, the new owner shall immediately make application for a license pursuant to Part 1 of this Section, except when the new owner holds a valid purebred license and adds the dog to such purebred license.

Section 7. Prohibited Acts.

A. Any owner of a dog or any other person who harbors any dog in the Town shall be in violation of this law if such dog:

1. Is not restrained by an adequate collar and lease or under full control of a responsible person when not on the property of the owner or the property another person harboring or having custody or control of the dog.

2. Engages in habitual loud howling or barking or conducts itself in such manner as to habitually annoy any person other than the person owning or harboring such dog.

3. Caused damage or destruction to property including domestic animals and pets, defecates, urinates

or otherwise commits a nuisance other than on the premises of the person owning or harboring such dog.

4. Chases or otherwise harasses any person in such a manner as reasonably to cause nuisance or annoyance, intimidation or to put such person in reasonable apprehension of bodily harm or injury.

5. Except when restrained by an adequate collar and lease on the property of the owner or other person harboring or having custody of the dog, chases, barks at, leaps on or otherwise harasses any (i) bicycle, motorcycle, motor wagon, carriage, or any other vehicle or device used by persons for travel or as a conveyance, or any riders or occupants thereof, or (ii) any horse or other animal including any rider thereon.

B. In addition, a dog owner or one who harbors any dog in the Town shall violate this law if he/she:

1. Fails to license any dog at the age of four (4) months or older, or allow any dog to be unlicensed due to failure to renew a dog license.

2. Fails to have any dog identified by a valid and current Town of Newfield dog license identification tag or fails to cooperate in the dog enumeration census.

3. Knowingly affixes to any dog any false or improper identification tag or any identification tag belonging to another dog.

4. Fails to confine, restrain or present such dog for any lawful purpose pursuant to this Local Law or Article 7 of New York State Agriculture and Markets Law.

5. Furnishes any false or misleading information on any license or form, required by the Town, the Newfield Dog Control Officer, or any shelter or pound servicing the

6. Fails to notify the Town Clerk of any change of ownership, change of address, death or loss of any dog licensed in the Town.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the owner of such dog that he/she has failed to properly confine, leash or control his/her dog.

C. No person shall hinder, restrain, resist or oppose the Dog Control Officer, a peace officer, or other person authorized to administer, carry out or enforce any provision of this Local Law or Article 7 of the Agriculture and Markets Law.

Section 8. Removal of Feces.

1. Any owner who allows a dog to defecate on any public or private property, other than the property of the owner, shall immediately clean up the feces, place it in a plastic container or bag, and deposit it in a container used for the disposal of refuse.

Section 9. Conditions for Keeping Dogs.

All premises occupied by dogs shall be kept in a clean, sanitary condition. Adequate food, water, shelter and space must be provided for each dog owned. For the purpose of this Section, "adequate" shall mean sufficient for age, size and number of dogs on the premises.

Section 10. Female Dogs.

All female dogs, while in season (heat), shall be confined to the premises of their owner and may not be left outside unattended. Any owner not adhering to this section shall be subject to having the dog seized by the Dog Control Officer and removed to a shelter or pound for confinement. The owner of any dog seized pursuant to this section shall be subject to an impoundment fee plus the shelter's usual boarding fees for time spent in the shelter. In the event that the dog is released from the shelter before the end of its cycle, the owner must demonstrate to the shelter manager that the dog shall be sufficiently confined elsewhere.

Section 11. Liability of Owner.

1. If a domestic, farm or companion animal is injured or killed as a result of being attacked, chased or worried by any dog, the owner of said dog shall be liable for damage. The owner of such injured or killed animal may make a complaint to the Dog Control Officer or a police officer who shall proceed pursuant to the Dangerous Dog Section of Article 7 of New York State Agriculture and Markets Law (currently Section 121 thereof).
2. In no event shall the Town of Newfield or the County of Tompkins be held liable for any damage done by any dog.

Section 12. Dangerous Dogs.

1. The determination of a Dangerous Dog and the prosecution of the owner of such a dog shall be pursuant to Article 7 of New York State Agriculture and Markets Law.
2. In the event that a dog is determined by the Newfield Town Court to be a dangerous dog, the Court shall give notice to the Town Clerk of such determination and note will be made in the dog's record. Additionally, the Town Clerk shall notify law enforcement and appropriate emergency services.

Section 13. Enforcement/Appearance Ticket.

Any Dog Control Officer or other person or persons, who are or may be lawfully authorized by the Town, shall administer and enforce the provisions of this Local Law, and for such purpose shall have the authority to issue appearance tickets.

Section 14. Seizure, Impoundment, Redemption and Adoption.

All Seizure, Impoundment, Redemption and Adoption activities required or prescribed under this section shall be performed by the Dog Control Officer (DCO).

1. Any dog belonging to a person found in violation of any of the provisions of this Local Law may be seized, impounded and disposed of pursuant to the provisions of New York State Agriculture and Markets Law (currently, Section 118 thereof).
2. Any dog believed to be dangerous and which poses an immediate threat to the public safety may be seized.
3. Any dog may be seized, which has been judged to be a Dangerous Dog pursuant to New York State Agriculture and Markets Law and whose owner has failed to obey a court order pertaining to said Dangerous Dog.
4. Every dog impounded shall be properly cared for, sheltered, fed and watered.
5. Seized dogs may be redeemed by producing proof of licensing and identification and by paying redemption and such other fees as may be set by the DCO.
6. Each dog which is not identified, whether or not licensed, shall be held for a period of 5 days from the day seized during which period the dog may be redeemed by its owner. Said owner shall provide proof that the dog has been licensed pursuant to this Local Law and pay an impoundment fee pursuant to Part 5 of this Section. Seized dogs that are found to be unlicensed shall be licensed before leaving the shelter and shall pay an Impounded Dog License Surcharge in addition to the regular licensing fee as set by resolution of the Town Board
7. In the case of an identified dog, the owner of record shall be promptly notified by the Dog Control Officer of the seizure and the procedure for redemption either personally or by certified, return receipt requested mail. If notification is personally given, the dog shall be held for a period of 7 days after the day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, the dog shall be held for a period of 9 days from the date of mailing, during which period the dog may be redeemed by the owner. Said owner shall provide proof that the dog has been licensed pursuant to this Local Law and pay an impoundment pursuant to Part 5 of this Section. Any owner who provides an expired license as proof will be required to renew the license and pay the additional Impounded Dog License Surcharge before the dog is released from the shelter.

Any dog unredeemed at the expiration of the appropriate redemption period shall be made available

8. for adoption or euthanized pursuant to the provision of New York State Agriculture and Markets Law.
9. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees required by Part 5 of this Section.
10. The seizure of any dog shall not relieve any person from any violation of this Local Law or New York State Agriculture and Markets Law.

Section 15. Complaint.

1. Any Town-designated Dog Control Officer having reasonable cause to believe that a violation of this Local Law has been committed in his/her presence shall, and any Police Officer or other peace officer may, issue and serve upon such person an appearance ticket for such violation.
2. Any person who observes a dog in violation of this Local Law may file a complaint, under oath, with a Town-designated Dog Control Officer specifying the nature of the violation, the date thereof, a description of the dog, the location of the violation and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this Local Law.
3. Upon receipt by the Town-designated Dog Control Officer of any such complaint, that Officer or Agency shall issue an appearance ticket to the alleged owner of the dog to appear before the Newfield Town Court at a date and time specified.

Section 16. Violations and Penalties.

Violations listed under Section 7.A and 7.B of this Local Law shall subject a party found guilty thereof to the following penalties/punishments:

- a. For a first violation - a fine not to exceed \$50;
- b. For a second violation - a fine not to exceed \$100;
- c. For a third and each and any subsequent violation - a fine not to exceed \$250 for each violation and, by possible imprisonment for a term not to exceed fifteen (15) days, for each third or subsequent violation.

These fines and penalties may be revised by the Town Board in its discretion by duly enacted resolution. Such fines and penalties shall be kept on file with and available at the office of the Town Clerk.

Section 17. Additional Penalties.

1. Pursuant to Article 7 of New York State Agriculture and Markets Law, any person who intentionally refuses, withholds, or denies a person, because he or she is accompanied by an on-duty police work dog, working search, war, or detection dog, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to \$200.00 for the first violation and up to \$400.00 for each subsequent violation.

Pursuant to Article 7 of New York State Agriculture and Markets Law, any person who for the purpose of participating in the animal population control program shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such

2. person's authority to submit an animal for a spaying or neutering procedure pursuant to this Local Law and/or Section 117 of New York State Agriculture and Markets Law, and any veterinarian who shall furnish false information concerning animal sterilization fees shall be guilty of a violation prosecuted pursuant to the New York State Penal Law punishable by a fine of not less than \$250.00.

A violation as defined in Section 7.C of this Local Law shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a penalty of not more than \$500 and/or imprisonment for a term not to exceed fifteen days, for each violation.

Section 18. Disposition of Fines.

Notwithstanding any other provision of law, all moneys collected as fines or penalties by the Town of Newfield as a result of any prosecution for violations of the provisions of this Local Law or Article 7 of New York State Agriculture and Markets Law and all bail forfeitures by persons charged with such violations shall be the property of the Town of Newfield and shall be paid to the Town Supervisor. Such moneys shall be used only for controlling dogs and enforcing this Local Law. Said revenue may also be used to subsidize the spaying or neutering of dogs, any facility as authorized under Article 7 of New York State Agriculture and Markets Law, and subsidizing public humane education programs in responsible dog ownership.

Section 19. Nonliability.

No action shall be maintained against the Town of Newfield or any person or persons lawfully authorized by the Town when performing duties pursuant to this Local Law or New York State Agriculture and Markets Law to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this Local Law or New York State Agriculture and Markets Law.

Section 20. Separability

If any section, paragraph, subdivision, clause, phrase or provision of this Local Law shall be judged invalid or held unconstitutional, it shall not affect the validity of the Local Law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Section 21. Repealer.

This Local Law shall supersede all prior Local Laws, ordinances, rules and regulations relative to the control, licensing and fee schedules of dogs within the Town and they shall be, upon the effective date of this Local Law, null and void.

Section 22. Effective Date.

This Local Law shall take effect the 1st day of January 2011.

AYES

CP James

CP Laughlin

NAYS

None

CP Hart
CP Dolge
Supervisor Driscoll
Motion carried

A discussion was held regarding the 2011 fee for dog licensing. After discussion motion was made by CP Dolge to Resolution No. 14-2010. Motion was seconded by CP Hart.

RESOLUTION NO. 14-2010 Licensing, Identification & Control of Dogs in the Town of Newfield.

WHEREAS the Newfield Town Board has adopted Local Law #1 - 2010
"Licensing, Identification & Control of Dogs in the Town of Newfield"
and

WHEREAS Section 6.7a of the Law authorizes the Town Board to establish by resolution a schedule of fees pertaining to the licensing, identification and enumeration of dogs

NOW THEREFOR BE IT RESOLVED that the following schedule is established.

Spayed/Neutered dogs - \$8.00 (\$7.00 local fee - \$1.00 statutory fee to go to the spay/neutered program.

Unspayed/Unneutered dogs - \$21.00 (\$18.00 local fee - \$3.00 statutory fee to go the spay/neutered program.

AYES	NAYS
CP Hart	None
CP Dolge	
CP James	
CP Laughlin	
Supervisor Driscoll	

Motion carried.

Motion was made by CP Dolge to approve Local Law Number 2-2010. Motion was seconded by CP James.

TOWN OF NEWFIELD LOCAL LAW # 2 of 2010

EXCAVATION AND CONSTRUCTION IN MUNICIPAL ROADWAYS AND HIGHWAY RIGHTS-OF-WAY

Be it enacted by the Newfield Town Board of the Town of Newfield as follows:

SECTION 1: TITLE & APPLICATION; FINDINGS - This Local Law shall be known as "Local Law Number 2 of 2010". Local Law Number 2 of 2010 hereby repeals any prior Local Law or resolution that is inconsistent herewith. Local Law Number 2 of 2010 applies only within the Town of Newfield Tompkins County, New York. The Town of Newfield hereby finds and declares that the provision of safe travel and the maintenance of safe public highways and roadways are of paramount importance to the public. Further, highways are costly to build, repair and maintain, and the Town of Newfield expends substantial resources annually to

maintain, repair, preserve and protect such public highways. Thus, based thereupon, and upon the authority granted to the Town of Newfield under and pursuant to Town Law § 64, Highway Law § 136, Articles 39, 40 and 41 of the Vehicle and Traffic Law, and §§ 10(1)(a)(6) and 10(1)(a)(12) of the

Municipal Home Rule Law, the Town of Newfield adopts this Local Law to preserve and protect highways and related rights-of-way, and to ensure safe travel for all persons traveling there upon.

SECTION 2: DEFINITIONS – The following terms used in this Local Law shall have the following meanings:

A. **APPURTENANT STRUCTURE** – “Appurtenant Structure” means any temporary or permanent structure or construct, other than a roadway or road surface, within the area of any Highway, including those structures, constructs, and devices located or installed over, upon, or under any such Highway, including, but not limited to, signs, traffic control devices, waterlines, utility lines, communications lines, culverts, ditches, drainage ways, manholes, fire hydrants, curbs, driveways, guardrails, bridges, bridge supports and railings, fencing, and often also including driveways.

B. **DEFAULT** – “Default” shall mean (1) any violation of the terms, requirements, or conditions of this Local Law; or (2) the violation of any terms or conditions of any Permit; or (3) performing any work, Construction, or Excavation not referenced in any application; or (4) performing any work, Construction, or Excavation upon any land, Highway, or Appurtenant Structure not specifically identified in the Application or the Permit issued by the Town of Newfield.

C. **CODE ENFORCEMENT OFFICER** – “Code Enforcement Officer” shall mean the Code Enforcement Officer appointed by the Town Board.

D. **CONSTRUCTION** – “Construction” means the building, installation, repair, or replacement of any Appurtenant Structure.

E. **CONTRACTOR** – “Contractor” shall mean any person or entity, including any landowner or private citizen, that proposes to perform Excavation or Construction under, in or upon any Highway, or any Appurtenant Structure related to any Highway.

F. **EXCAVATION** – “Excavation” shall mean any work, process, or construction that proposes to or does alter the surface of any Highway, or which affects the soils or any Appurtenant Structure of or under any Highway, including, but not limited to, pavement cuts and culvert installations, and also including road surface work and paving.

G. **FEE** – “Fee” shall mean any charge or cost imposed or due under or as a result of this Local Law. Fees may be updated, changed, or amended from time-to-time by resolution of the Town Board of the Town of Newfield.

H. **HIGHWAY** – “Highway” shall mean each, every, and all public streets, public sidewalks, public roads, public alleys, and public highways within the Town of Newfield that are Town of Newfield highways by use, highways by dedication, and/or highways by implication, including the paved or finished surfaces thereof, all signage, all ditches, culverts, drains and drainage ways, all utility and similar structures and appurtenances, and all land, improved or otherwise, within the bounds of the highway rights-of-way.

I. HIGHWAY SUPERINTENDENT - "Highway Superintendent" shall mean the elected or appointed Highway Superintendent of the Town of Newfield and/or designees of each such person who are given specific written authorization to act for such Highway Superintendent under this Local Law.

J. PERMIT - "Permit" shall mean any permit required under or pursuant to this Local Law.

K. SECURITY - "Security" shall mean: (1) a cash deposit delivered to the sole custody of the Town of Newfield to secure and guarantee performance under any Permit and compliance with this Local Law, free of reservations, restrictions, conditions or claims; or (2) an unconditional letter of credit approved by the Town of Newfield or (3) a performance, completion, and indemnity bond approved by the Town of Newfield; or (4) a Certificate of Deposit irrevocably assigned to the Town of Newfield in an approved amount; or (5) any other form of undertaking as approved by the Town of Newfield; or (6) any combination of the foregoing approved by the Town of Newfield.

SECTION 3: PROHIBITIONS - From and after the effective date hereof, no firm, utility company or provider, transportation corporation, communications or cable company, or other person or entity shall conduct any Construction or make any Excavation, cut, or breaking in, or otherwise open any Highway or sidewalk for any purpose whatsoever, including, but not limited to, the making of any driveway connection or the installation or repair or replacement of any culvert or other Appurtenant Structure, without a Permit issued pursuant to the requirements of this Local Law. No Contractor may perform any Construction or Excavation in, upon, or under any Highway, nor construct, repair, install, or build any Appurtenant Structure, without a Permit. No Contractor or other person or entity may spread, place, or distribute any substance upon a Highway or within a highway right-of-way unless done pursuant to, and in compliance with, a Permit.

A. In the case of an emergency any person or entity already having or possessing rights to any Appurtenant Structure within any Highway may effect such emergency repairs as are reasonably necessary; but such person or entity must thereafter apply for a Permit upon the next business day.

B. This Local Law shall not apply to the installation of mailboxes and newspaper boxes.

C. This Local Law shall not apply to Excavation, Construction, or other work performed upon, under or within Highways and related rights-of-way by the Town of Newfield, including Excavation, Construction, or other work upon Appurtenant Structures.

SECTION 4: PERMIT REQUIRED - All Contractors are required to obtain a Permit from the Town of Newfield prior to performing any Construction or Excavation in, upon, or under any Highway, or before constructing, repairing, installing, or building any Appurtenant Structure. Each Permit issued by the Town of Newfield will be valid only for a stated period of time. Permits are not transferrable or assignable by any act or by operation of law. If the Permit expires, a renewal Permit may be issued by the Town of Newfield for an additional fee of \$ 10.00 upon such additional or other terms, Security, or restrictions as determined in the sole discretion of the Highway Superintendent.

A. When a common Construction or Excavation project involves more than one firm or Contractor, including public service companies and transportation corporations, those Contractors shall together designate in writing a lead Contractor who shall be responsible for obtaining a Permit, acting in compliance there with, and for compliance with the terms and requirements of this Local Law.

Despite the existence of a lead Contractor, all such other persons and entities shall be and be deemed Contractors under and pursuant to this Local Law.

SECTION 5: PERMIT PROCESS – Contractors must submit a completed application for a Town of Newfield Permit upon a form provided and approved by the Highway Superintendent to the Code Enforcement Officer. The Highway Superintendent may develop and utilize one or more types of forms for Permit applications as based upon any reasonable standard, such as, but not limited to, the type of work to be performed (e.g., “culvert permits” or “driveway or curb cut permits” or “excavation permits”, etc.). All Permit applications shall contain the following information or materials:

- A. Project drawings and specifications for any Excavation or Construction as required by the Highway Superintendent, including, where applicable surveys and/or plans sealed by a New York State licensed engineer or architect in compliance with, *inter alia*, the New York State Education Law.
- B. An application Fee set according to a schedule prescribed from time to time by Resolution of the Town Board.
- C. If the Contractor proposes to do work or perform any Excavation or Construction upon or under any land outside of the Highway, the written consent of the owners of each such parcel of land shall be provided, and such written consent must recite that such owner has reviewed the proposed Excavation or Construction drawings and specifications and consents to, or otherwise permits, such work.
- D. Whenever required, a completed Environmental Assessment Form (“EAF”) shall be submitted by the Contractor pursuant to the provisions of the State Environmental Quality Review Act and its implementing regulations at 6 NYCRR Part 617 (together herein, “SEQRA”). No Permit may be issued until the SEQRA review process has been completed.
- E. A Stormwater analysis of the impacts of any excavation or construction or installation project upon the Highway and its Appurtenances. Such analysis shall follow the requirements of Town of Newfield Local Law # of 200 “Stormwater Management and Erosion and Sediment Control Local Law, and/or shall comply with the terms of (i) the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the “Blue Book”, and, as applicable, (ii) the State Pollutant Discharge Elimination System (“SPDES”) General Permit for Construction Activities GP-02-01 or GP-02-02 (each and all as now exist or as hereafter codified, updated, changed or amended). Any information and any Stormwater Pollution Prevention Plan (“SWPPP”) shall be designed to contain any increases in stormwater and prevent any erosion of the Highway and any Appurtenances, as well as prevent stormwater pollution and sedimentation.
- F. The required amount(s) and type(s) of Security.
- G. Construction and Excavation start dates and completion dates.
- H. Any other information the Highway Superintendent may require, including, but not limited to, traffic control plans and proof of a right to enter any private property.

SECTION 6: WINTER WORK - During the "winter work season," which is hereby defined as November 15 through April 1, annually, Permits will generally be issued only in the discretion of the Code Enforcement Officer and generally only for emergency work. In the event that a winter Permit is issued, the following temporary remediation and other requirements apply:

- A. All Highway shoulders shall require additional materials and compaction as determined by the Highway Superintendent.
- B. Temporary pavement and road surface restorations may be made by (i) the placement and compaction of a minimum of two layers of dust-bound crushed stone, each of a compacted thickness of four inches on the prepared sub grade, followed by a layer of bituminous concrete, winter mix, six inches in compacted thickness, on top, or (ii) as otherwise required by the Code Enforcement Officer.
- C. No frozen material shall be placed in excavation areas.
- D. Daily inspections may be required and, if so, paid for by the Contractor. Whenever required by the Code Enforcement Officer, the Contractor shall perform any needed repairs or maintenance within 24 hours of receipt of any notice requiring the same
- E. All Temporary repairs shall be maintained by the Contractor until a permanent repair is made. The Contractor must monitor the site and perform repairs within 24 hours notice of the Code Enforcement Officer.
- F. As early as spring weather permits, the excavation area shall be inspected at the expense of the Contractor and a permanent repair shall be made by the Contractor. Where required, in the reasonable discretion of the Code Enforcement Officer, the permanent repair may require re-construction of the road base or other re-construction requirements.
- G. Notwithstanding anything which may appear to the contrary in the Permit or this Local Law, the Contractor assumes all responsibility for the safe maintenance of the subject work site(s) from November 15 through April 1, and
- H. further assumes all liability for damages resulting from, or in any way connected with, the subject work and work area during this period.

SECTION 7: REVIEW OF APPLICATION; FEES, ESCROW DEPOSITS, SECURITY AND INSURANCE – The Code Enforcement Officer shall review each completed and submitted application within 30 days. Any application may be rejected if:

- A. The details, specifications, or drawings are incomplete or lack specificity.
- B. The proposed project, work, Excavation, or Construction is or will be harmful or injurious to any Highway as determined by the Code Enforcement Officer.
- C. The application has incomplete or inadequate stormwater controls, if required, or an inadequate SWPPP as required by Town of Newfield Local Law # of 200 “Stormwater Management and Erosion and Sediment Control Local Law.
- D. The proposed Contractor is unable to meet the Security requirements of the project and/or this Local Law.

The Code Enforcement Officer shall, for each application, determine and set an amount of Security and liability insurance that must be posted and/or provided by the Contractor prior to the issuance of any Permit. The Security shall be in such form and amount as determined by the Code Enforcement Officer. The insurance shall be procured, paid for, and provided by the Contractor, who shall maintain general all-risk liability, completed operations, and workers’ compensation insurance coverage’s, each in the minimum amount of \$1,000,000.00. Each such coverage or policy shall name the Town of Newfield as an additional insured and waive any subrogation rights as against the Town

of Newfield. For any Construction or Excavation that will be performed in phases, that will require multiple inspections, or that will require the review of any engineer or other paid consultant (such as, but not exclusively, to review any SWPPP, surveys, engineering or design plans, etc., if and as required), the Code Enforcement Officer may require the establishment of a Fee, inspection, and review escrow account (“FIREA”) to be funded periodically by the Contractor in amounts deemed reasonable by the Code Enforcement Officer to ensure that adequate funds are available to pay for the costs of such Fees, inspections, and reviews. The Town Board of the Town of Newfield may establish, by Resolution, standardized FIREA schedules for permits and other required reviews, inspections, and reports created, performed, reviewed, or filed under, in accord with, or in furtherance of this Local Law, which schedule shall (i) be limited to such amounts as are reasonably estimated as the administrative and other costs and expenses incurred by the Town of Newfield in connection with any matter arising under this Local Law, and (ii) be reviewed at least once every year by the Town Board of the Town of Newfield to assure that the fees remain reasonable in light of actual and generally incurred costs and expenses associated with Fee, inspection, and review requirements.

SECTION 8: PERMIT ISSUANCE – The Code Enforcement Officer, upon the receipt, review and approval of any application, shall issue a Permit for such work upon such terms as determined in the reasonable discretion of such Code Enforcement Officer. The Code Enforcement Officer may require that special conditions be met as deemed necessary, in his or her discretion, in conjunction with the work, Excavation and/or Construction to be performed on, in, or under any Highway or Appurtenant Structure. The Code Enforcement Officer may issue a revised or amended Permit at any time to correct any error or omission, to require or reference a change in the scope of work or the project specifications, to address the encountering of unforeseen surface or subsurface conditions, including weather, or for any other reason.

SECTION 9: ENFORCEMENT OFFICER - The Code Enforcement Officer is hereby authorized, directed, and designated to enforce the provisions of this Local Law.

SECTION 10: PERFORMANCE – The Contractor may only perform work, Construction or Excavation as authorized by the express terms of the Permit. In performing such work, Construction or Excavation, the Contractor shall:

- A. Preserve and protect all roadway surfaces, the Highway, and each Appurtenant Structure from needless destruction or alteration.
- B. Commence the work, Excavation, and/or Construction, within 20 days of the date the Permit is issued, and there after perform the work, Excavation, and/or Construction, and all backfilling, tamping, repair, and restoration work, as one continuous operation to complete the same by the earliest practical date. As soon as the Contractor becomes aware that Construction, and/or Excavation may not be completed by the completion date stated in or required by any Permit, the Contractor must notify the Code Enforcement Officer to apply for a new permit. No work shall continue past the permit completion date.
- C. Restore and repair any affected Highway and Appurtenant Structure to the current requirements.
- D. Maintain at all times safe crossings, barricades, coverings, warning signs, lighting, and any and all other safety devices, structures, or procedures as may be required by law or regulation, the New York State Department of Transportation, OSHA, or in the exercise of diligent care.
- E. Maintain at all times the Security and insurance coverage(s) required, and to pay, whenever requested, any FIREA deposits.

F. Perform the work, Construction and/or Excavation in such a manner and at such times as to not interfere with, or to minimize, any obstructions to the safe flow of traffic.

G. Prevent stormwater pollution arising from any site or other Excavation or Construction, including through the proper installation and maintenance of short-term and permanent stormwater management practices and, as and if applicable, compliance with any SWPPP and/or any SPDES Permit conditions or requirements.

H. Perform all backfilling and tamping with materials specified by the Highway Superintendent, which materials shall be free from clay, loam or silt, and which materials shall be moistened and mechanically tamped until thoroughly compacted.

I. For all Construction or Excavation work that will impair the provision of any public utility, water supplies, or effect any closure or partial closure of any Highway, it shall be the duty of every Contractor to give at least 72 hours' advance written notice of the work and the effect thereof to all persons, entities, or municipalities owning property or any Appurtenant Structures within 500' of the vicinity of the proposed work. Proof of due notice shall be filed with the Highway Superintendent at least 48 hours prior to the commencement of the proposed work.

J. The Contractor shall provide prior notice to each and all utility companies, public service companies, and municipalities of the proposed work, Excavation, or Construction, and to have such company or municipality mark or otherwise identify the location or course of any underground or other utilities. No work, Excavation, or Construction shall commence until all utilities and underground appurtenances are so marked and the rules and regulations of the New York State Public Service Commission and the "Dig Safely New York" program have been fully complied with.

K. All Appurtenant Structures shall be built, repaired and installed in accordance with all applicable laws, regulations, and rules, including, but not limited to the New York State Manual of Uniform Traffic Control Devices.

L. The Contractor shall preserve, protect, and maintain (including maintenance of the distribution of) all utilities encountered or affected by or during performance of any work, Excavation or Construction.

SECTION 11: REVOCATION OF PERMIT; DEFAULTS – A Permit may be revoked by the Code Enforcement Officer after notice to the Contractor (or other permittee) for any violation of any condition of the Permit, for the violation or of any provision of, or non-compliance with, this Local Law, for the violation of any provision of any other applicable ordinance or law relating to the work, or for the existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others. The following terms and conditions shall apply to the revocation of any Permit and/or the occurrence of any Default:

A. A Contractor may be granted one period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the Permit before said Permit is revoked. Written notice of any such violation or condition shall be served upon the Contractor or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the Permit.

B. Notice may be given either by personal delivery thereof or by registered United States mail addressed to the person notified.

C. When a Permit has been revoked and the work authorized by the Permit has not been completed, the Highway Superintendent shall cause such work as may be necessary to be performed to restore the Highway to as good a condition as before the Construction or Excavation work was undertaken. Such performance and work may be undertaken by the Highway Superintendent's employees and staff, or by any independent contractor hired by the Town of Newfield to perform such work. All expenses and costs incurred to restore the Highway shall be recovered from any posted Security, or if the same is inadequate to cover the costs and expenses thereof, then from the Contractor.

D. The failure of any Contractor to cure any Default or cure any conditions stated within the above-referenced notice within such three days shall be a Default that shall entitle the Town of Newfield to collect and utilize any Security or FIREA deposit for any purpose related to the Contractor's Permit, including, but not limited to, the repair of any damage, the completion of the project, or the hiring of any third party to complete the project. No default, nor the completion of the project by any third party or the Town of Newfield, shall relieve the Contractor of any obligation or expense imposed under this Local Law, or as may otherwise be imposed by any other law or regulation.

Notwithstanding the foregoing terms, conditions and requirements, whenever the Highway Superintendent believes that there is any emergency, the Highway Superintendent may issue a "stop work" order. Immediately upon receipt of the same each Contractor shall cease work, secure the worksite, and immediately adhere to and complete all safety inspections and procedures as may be required by law, regulation, or the terms of the stop work order. Work may only re-commence upon the written revocation of the stop work order by the Highway Superintendent.

SECTION 12: INSPECTIONS – Until the Construction or Excavation is completed, the Town of Newfield may furnish and charge for an inspection for each day that such work is in progress. Inspections shall be made for the sole purpose of verifying compliance with the Permit or for verification that the materials and processes used will result in a finished job that is consistent with Town of Newfield specifications. No inspection is made for the purposes of reviewing, recommending, or verifying safety practices. Safety compliance and safety inspections are and shall be and remain the sole responsibility of the Contractor. The Fee for each such inspection shall be adopted by resolution of the Newfield Town Board and shall be promptly paid upon request.

SECTION 13: RESTORATION – After performance and/or completion of any work, Construction or Excavation, the Highway and each Appurtenant Structure shall be repaired and restored in a permanent manner satisfactory to the Highway Superintendent and/or in accord with Permit requirements. To the extent possible, any repair or restoration must match the original Highway or Appurtenant Structure in type, color, structure, materials, grade, and texture, in compliance with then current applicable specifications there for. Upon completion of the work and after restoration pursuant to the terms of this Local Law, any remaining amount of any deposit or Security shall be returned or released, as applicable.

SECTION 14: WAIVERS - Where the Code Enforcement Officer finds that, due to the special circumstances of a particular case a waiver of certain requirements is justified, a waiver of any one or more requirements of this Local Law may be granted. In all cases, no waiver shall be granted unless the Code Enforcement Officer finds and records in writing that:

- A. Granting the waiver would be keeping with the intent and spirit of this Local Law and is in the best interests of the community.
- B. There is no adverse effect upon the Highway or any Appurtenant Structure.

- C. There is no adverse impact upon the ability to safely travel upon such Highway.
- D. There are special circumstances involved in the particular case.
- E. Denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed.
- F. The waiver so requested or granted represents the minimum necessary degree of variation from the requirements of this Local Law or the Permit.

SECTION 15: OFFENSES; PENALTIES; ENFORCEMENT - Any Contractor or other person or entity that violates any of the provisions of this Local Law shall be guilty of a misdemeanor punishable by a criminal fine between \$500.00 and \$2,000.00, or a sentence of imprisonment not to exceed 15 days, or both. Each week of continued violation shall be and be deemed a separate offense. For the purposes of conferring jurisdiction upon courts and judicial officers such violation shall be deemed an unclassified misdemeanor and all provisions of law relating generally to misdemeanors shall apply. In lieu of the foregoing and at the election of the Town of Newfield, any violation of this Local Law shall subject any Contractor, person, or other entity or party to a civil penalty of not less than \$100.00 and not more than \$500.00 for any first violation, and to a civil penalty of not less than \$250.00 and not more than \$1,000.00 for any subsequent violations, with such penalties to be recovered in a civil action in the name of the Town of Newfield. The application of any sentence or penalty shall not preclude the enforced removal or prevention of any prohibited conditions or violations of the Permit or this Local Law. Nothing in this Local Law shall prohibit the Town of Newfield from seeking any other relief as may be provided for or allowed by law or in equity, or be deemed to effect an election of remedies by the Town of Newfield. Any fine or penalty provided for in this Local Law is intended to be in addition to, and not in lieu of, any rights or remedies the Town of Newfield may have in such circumstances.

SECTION 16: APPEALS - Any aggrieved person or entity may appeal any action or determination of the Code Enforcement Officer to the Town of Newfield by filing a written statement setting forth the reasons for such appeal. Such statement shall be filed within 5 days of the delivery or filing of any action or determination from which the appeal is taken, time being of the essence. Upon receipt of such appeal, the Newfield Town Board shall hold a hearing within 30 days and, after a review of all evidence, shall affirm, modify, or annul the appealed from action or determination.

SECTION 17: ARTICLE 78 - The actions and determinations of the Town of Newfield, and its elected officials, employees, and agents shall each be deemed "final determinations" for purposes of Article 78 of the New York Civil Practice Laws and Rules ("CPLR"). Notwithstanding this, standing under said Article 78 of the CPLR shall only be appropriate after the exhaustion of any administrative appeals as provided for in this Local Law.

SECTION 18: LIABILITY AND INDEMNITY - The Contractor assumes sole responsibility for the worksite and all related or adjacent areas and lands and agrees to assume all responsibility for any injury or damage that may or does occur as a result of any Excavation or Construction and any related work, including, but not limited to, traffic control, grubbing, paving, clean up, remediation, or restoration work. The Contractor, to the fullest extent permitted by law, shall indemnify and hold the Town of Newfield harmless from and against any, each, and all losses, actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity (all together hereafter, "Claims"), including, but not limited to, reimbursement to the Town of Newfield any amount expended for any and all experts', consultants', attorneys' and engineering fees and expenses arising from or in relation to any Claim. The Town of

Newfield shall not be liable or responsible for any injury to persons or damage to property due to any acts or failures to act under or pursuant to any Permit or this Local Law unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town of Newfield.

SECTION 19: CONSTRUCTION WITH OTHER LAWS - The provisions of this Local Law shall not diminish or impair the right of any other governmental agency or body to require that any act be taken or avoided. No variance, permit, grandfather rights, law, code, resolution, procedure, or rule pertaining to zoning or land use shall supersede the requirements of this Local Law. This Local Law is intended to supplement and augment the requirements of zoning and land use regulations and rules, as well as the rules of other governmental bodies and agencies, relating to the preservation and protection of highways and public rights-of-way, and to ensure their continued safe operating condition.

SECTION 20: SEVERABILITY; INTERPRETATION - If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Local Law shall be adjudged invalid by a court or other tribunal of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law. Any such invalidity shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such order or judgment shall have been rendered. Section and other headings are for reference and convenience only and shall not be deemed or construed to limit or define the requirements of clauses set forth there under.

SECTION 21: EFFECTIVE DATE – This Local Law shall be and become effective immediately upon filing with the New York Secretary of State.

AYES	NAYS
CP James	CP Laughlin
CP Hart	
CP Dolge	
Supervisor Driscoll	

Motion Carried.

A resolution needs to be made with the fee schedule. This will be presented at the next work session.

A discussion was held regarding the possibility of changing the Regular Town Board Meeting to the Fourth Thursday of the Month. CP Hart felt that the issue of paying of the bills should be looked in to so the Town doesn't pay a lot of late fees if the bills become past due prior to the end of the month. Supervisor Driscoll stated he would look into that concern and this issue will be discussed again at a later date.

Motion was made by CP Dolge to approve the payment of the November 2010 Monthly bills. Motion was seconded by CP James. All approved.

General Fund	totaling	\$22,003.18
Highway Fund	totaling	\$19,651.93
Street Light	totaling	\$ 1,347.20
Sewer District	totaling	\$ 79.48
Water District 1	totaling	\$ 7,749.63
Recreation Fund	totaling	\$ 824.40

REPORTS

SUPERVISOR - Supervisor Driscoll is no longer working at Suicide Prevention and currently is without health insurance coverage. According to a resolution adopted in 1994 the Town Supervisor is eligible to participate in the Town's health insurance program at no cost to the Town Supervisor. So in 2011 he will be participating in this program. Due to some cost errors in the calculations of health benefit costs in 2010 there is a overage in the amount of money to be carried over in 2011. The supplement is \$7234.00 Supervisor Driscoll's benefit will cost \$5072.00 leaving a surplus of \$1,671.

Highway - No Report

Water/Sewer - No Report

Code Enforcement - Code Enforcer, Harry Wright on the building permits issues through October. 124 permits for the year. 10 permits less than last year. CP Dolge asked if the road on Millard Hill was going to be taken over by the town. Mr. Wright stated that would depend on the Highway Superintendent and if the road was built according to the road specifications.

Code Enforcer Tony Petito was unable to attend tonight's meeting so Supervisor Driscoll gave Mr. Petito's report. He reviewed the projects that Mr. Petito is working on.

County Legislator - County Legislator, Dave McKenna reported to the Board the Resolutions that the County has passed and the workings going on at the Legislative level.

A re-organizational meeting will be held on Jan. 3, 2011 at 7:00PM.

There being no further business Supervisor Driscoll adjourned the meeting at 8:00PM.

Respectfully submitted,

Katharine Crance
Town Clerk

December 16, 2010
Date