

TOWN OF DURHAM LOCAL LAW #1 OF 2015  
A LOCAL LAW AMENDING LOCAL LAW#2 OF 2014 CREATING THE POSITION OF ANIMAL  
CONTROL OFFICER AND REGULATING ANIMALS

Section 1. Purpose

The Town Board of the Town of Durham (hereinafter referred to as the “Town”) finds that the running at large and other uncontrolled behavior of licensed and unlicensed animals, including dogs, has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this Local Law is to protect the health, safety and well-being of persons and property by imposing restrictions on the owners of animals within the Town.

Section 2. Title

The title of this law shall be, “Animal Control Law of the Town of Durham.”

Section 3. Animal Control Officer

The position of Animal Control officer is hereby created and shall be filled by appointment of the Town Board of the Town of Durham as set forth herein.

Section 4. Definition of Terms

As used in this Local Law, the following words shall have the following respective meanings:

- a. Agriculture and Markets Law. The Agriculture and Markets Law of the State of New York in effect as of the effective date of this Local Law, as amended by this Local Law, and as amended thereafter.
- b. Animal. Pets, farm animals, dogs, cats, sheep, horses, cattle, goats, swine, fowl, ducks geese, turkeys, chickens, any other mammal, bird, reptile, whether domesticated or not, or which is classified by the NYS Department of Environmental Conservation as “dangerous wildlife.”
- c. Confined. That such animal is securely confined or restrained and kept on the owner’s premises, whether within a building, kennel, electric fence or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.
- d. Animal Control Officer. Any person authorized by the Greene County Legislature or the Town Board of the Town of Durham from time to time to enforce the provisions of this Local Law or the provisions of the Agriculture and Markets Law and shall have peace officer status following appropriate.
- e. Harbor. To provide food or shelter to any animal.
- f. Owner. The party purchasing the license of an animal, unless the animal is or has been lost, and such loss reported to the Animal Control Officer and reasonable search has been made. If an animal 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 an animal for a period of one (1) 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 animal for the purpose of the local law. In the event any animal found to be in violation of this chapter shall be owned by a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said animal and shall be responsible for any acts of the said animal and violation of this Local Law.

g. Recreational Areas. Recreational areas shall mean any real property owned by the Town which is used for recreational purposes by the public including, but not limited to, parks or playgrounds.

h. Run at large. Run at large shall mean to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

i. School Premises. Any real property situate within the Town which is used for educational purposes or purposes incidental thereto.

j. Dog. Any male or female animal, licensed or unlicensed, which is a member of the species *Canis familiaris*.

k. Leased. Restriction by a leash attached to a collar or a harness of sufficient strength to restrain a dog, which shall be held by a person having control of the dog.

j. Town. Shall designate the area within the corporate limits of the Town.

#### Section 5. Restrictions

It shall be unlawful for any owner of any animal in the Town to permit or allow such animal to:

a. Engage in habitual loud howling, barking, crying, whining or making of such noise or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such animal.

b. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property not belonging to the owner of such animal.

c. Run at large, chase, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.

d. Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harbinger of said animal.

e. Create a nuisance by defecating, urinating or digging on public property or private property other than of said owner.

f. If a female dog, be off the owner's premises when it heat except during the transportation of the dog to a veterinarian's office or is involved with a formalized, controlled breeding program.

g. Be at large on any school premises or recreational areas or the sidewalks adjacent thereto, unless said dog is leashed.

h. Destroy, kill or damage any dog, cat, poultry, livestock or domestic pets not belonging to the owner, or wild game unless engaged in legal hunting with the owner.

Establishment of the fact or facts that an animal has committed any of the acts prohibited by section 5 of this Local Law shall be presumptive evidence against the owner or harbinger of such animal that he/she has failed to properly confine, leash or control his/her animal.

#### §6. Enforcement

This Local Law shall be enforced by any animal control officer or peace officer when acting pursuant to his/her special duties.

#### §7. Seizure, Impoundment, Redemption and Adoption

a. Any animal control officer and/or peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town may seize, pursuant to the provisions of Agriculture and Markets Law (AML) §118:

- i. Any animal found in violation of the provisions of this Local Law or Article 26 of the Agriculture and Markets Law, or
- ii. Any dog not wearing a tag, not identified and which is not on the owner's premises.

b. To effectuate seizure, the animal control officer, peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog and shall dog shall be impounded and disposed of pursuant to Section 118 of the AML, unless such officer is attacked by the dog and must defend him or herself against bodily injury. No animal control officer, peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town is authorized hereby to enter a building in order to seize a dog without the permission of the building owner. When permission is not given and probable cause exists to believe that a dog is in the building and is in violation of the AML or this Local Law, then the animal control officer, peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town may proceed before a court of law to obtain a search warrant to enter the building to seize the dog application of the Criminal Procedure Law Article 690. Every animal seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in Section 118 or Article 26 of the Agriculture and Markets Law.

c. Seized animals may be redeemed by producing proof of licensing and identification pursuant to the provisions of Local Law #2 of 2010 of the Town of Durham and by paying the impoundment fees set forth therein and/or as made from time to time by resolution of the Town Board and shall be, at a minimum, the amount due to the impoundment facility as of the date of the redemption of the dog.

d. If the owner of any unredeemed animal is known, such owner shall be required to pay the impoundment fees set forth in subdivision (c) of this section whether or not such owner chooses to redeem his/her animal.

e. Any animal unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 118 or Article 26 of the Agriculture and Markets Law.

f. The seizure of any dog shall not relieve the owner from any violation provided for by the Agriculture and Markets Law and this Local Law.

g. No action shall be maintained against the Town, any animal control officer police officer or peace officer when acting pursuant to his/her special duties, or any other agent or officer of the Town or person under contract to said Town to recover the possession or value of animal, or for damages for injury or compensation for the destruction of any animal seized or destroyed pursuant to the provisions of this Local Law or the Agriculture and Markets Law.

#### §8. Appearance Ticket

Any animal control officer, peace officer when acting pursuant to his/her special duties, or police officer in the employ of or under contract the Town observing a violation of this local law in his/her presence shall issue and serve an appearance ticket for such violation.

#### §9. Complaint

a. Any person who observes an animal in violation of this Local Law may file a complaint under oath with a Town Justice specifying the nature of this violation, the date thereof, a description of the animal and the name and residence, if known, of the owner of the animal.

b. Upon receipt by the Town Justice of any such complaint, he/she shall summon the alleged owner to appear in person before him/her for a hearing, at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he/she may order:

1. The animal to be declared a vicious or dangerous animal to be restrained by collar and leash and muzzled at all times whether on or off the owner's property.
2. The animal to be confined to the premises of the owner.
3. Such other remedy as may be warranted by the circumstances in such case.

c. A violation of any order issued by a Town Justice under the provisions of this Section 8 shall be an offense punishable, upon conviction thereof, as provided in section 9 of this Local Law.

#### §10. Penalties

A conviction of a violation of this Local Law shall be deemed an offense and punishable by a fine not exceeding One Hundred (\$100) dollars for the first offense and/or up to 15 (fifteen) days in jail, and Two Hundred Fifty (\$250) dollars and/or 15 (fifteen) days in jail for each offense thereafter.

#### §11. Obstruction of Governmental Administration

No person shall hinder, resist or oppose the animal control officer and/or peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town or other person(s) authorized to administer or enforce the provisions of this Local Law or in the performance of the officer's or other person's duties under this Local Law. Any person hindering, resisting or opposing the animal control officer or peace officer when acting pursuant to his or her special duties or a police officer employed by or under contract to the Town shall be guilty of a violation of and prosecuted pursuant to Penal Law §195.05, Obstructing Governmental Administration in the second degree.

#### §12. Separability

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

#### §13. Repealer

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs and/or other animals within the Town and they shall be, upon the effectiveness of this Local Law, null and void, except Local Law #5 of 2010 of the Town of Durham, which shall have supremacy over any terms or regulations contained herein.

#### §14. Effective Date

This Local Law shall take effect immediately.