

**TOWN OF DURHAM
LOCAL LAW # 2, 2010
REGULATING THE LICENSING OF DOGS**

Section 1. PURPOSE AND INTENT

The Town Board of the Town of Durham finds it necessary to enact a local law to address the licensing of dogs in lieu of the State of New York's recent mandate that dog licensing become a local government function on January 1, 2011. 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 person, property, and domestic animals from dogs.

Section 2. AUTHORIZATION

This local law is adopted pursuant to section 10 of the Municipal Home Rule Law and New York Agriculture and Markets Law Part T of Chapter 59 of the Laws of 2010.

Section 3. ENACTMENT

The Town Board of the Town of Durham hereby adopts the following local law with regard to the licensing of dogs within the Town of Durham:

Section 4. DEFINITIONS

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

CUSTODIAN - person having possession or guardianship of any dog who is not the owner of the dog.

DOG - includes male and female, licensed and unlicensed members of the species *Canis familiaris*.

DOG CONTROL OFFICER – any individual appointed by the Town of Durham to enforce any and all New York State Agriculture and Markets Laws and Local Laws regulating animals, including dogs.

HARBOR- to provide food and/or shelter to any dog.

IDENTIFICATION TAG - tag issued by the Town of Durham which sets forth the identification number assigned to a specific dog and such other information as the Town of Durham deems appropriate.

IDENTIFIED DOG - any dog carrying an identification tag as required by this Local Law.

LICENSE EXPIRATION DATE - the expiration date as noted on the dog license issued by the Town of Durham.

OWNER – any person who harbors or keeps a dog.

OWNER OF RECORD- the person in whose name any dog was last licensed pursuant to this local law, 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. Any person owning or harboring a dog for a period of one (1) week in the Town of Durham shall be held and deemed the

owner of such dog for purposes of this Local Law.

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.

TOWN CLERK - the Clerk of the Town of Durham, where dog licenses are validated or issued pursuant to this Local Law.

Section 5. LICENSING OF DOGS

A. All dogs within the Town of Durham four (4) months of age or older, unless otherwise exempted, shall be licensed. The owner of each dog required to be licensed shall obtain, complete and return, to the Town Clerk or the Dog Control Officer, a dog license application together with required supporting documentation, the license application fee, any applicable license surcharges and such additional fees as may be established by the Town of Durham. Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required. Each license issued shall be valid for a period of one year and must be renewed prior to the expiration date thereof. The Town of Durham hereby specifically opts out of the option to allow any licensed chapter of the Humane Society to issue licenses within the Town.

B. 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.

C. All licenses shall expire on the last day of the last month for which it is issued.

D. The owner of any dog shall notify the Town Clerk of a change of address, ownership, death or loss of their licensed dog.

E. Upon the submission of a dog license application, all required documentation and payment of the required license fee, a Town of Durham dog license identification tag will be provided to the owner of the dog. The identification tag must be affixed to a dog collar and worn by the dog at all times.

F. For those owners who fail to renew a dog license, the Town Clerk or Dog Control Officer shall mail a late renewal fee invoice and warning that failure to renew the license, within a specified time, may result in the issuance of a late fee or court appearance ticket. The application fee for renewal of a dog license which has expired for a period in excess of 60 days or not renewed within 30 days of the date of the aforementioned late notice shall be \$25.00, in addition to the standard base fee for such renewal.

G. Any dog harbored within the Town of Durham which is owned by a resident of New York City and licensed by the City of New York, or which is owned by a non-resident of New York and licensed by a jurisdiction outside the State of New York, shall for a period of thirty (30) days be exempt from the licensing and identification provisions of this local law.

H. Any dog found to be unlicensed during a dog census shall pay a \$5.00 fee in addition to the standard licensing fee.

Section 6. LICENSING FEES

- A. License fee for spayed/neutered Dog: $\$9.00 + \text{NYS Surcharge } \$1.00 = \$10.00$
- B. License fee for un-spayed/un-neutered Dog: $\$15.00 + \text{NYS Surcharge } \$3.00 = \$18.00$
- C. License fee for spayed/neutered Dog: $\$9.00 - \text{Sr. Credit (65+) } 5.00 + \text{NYS Surcharge } \$1.00 = \$5.00$
- D. License fee for un-spayed/un-neutered Dog: $\$15.00 - \text{Sr. Credit (65+) } 5.00 + \text{NYS Surcharge } \$3.00 = \$13.00$
- E. Tag replacement fee \$5.00
- F. There shall be no fee for licensing of service dogs or police dogs.

Section 7. VIOLATIONS

- A. It shall be a violation, punishable as provided in subdivision C of this section, for:
 - (i) any owner to fail to license any dog;
 - (ii) any owner to fail to have any dog identified as required by this article;
 - (iii) any owner to fail to renew a dog license on or before the license expiration date;
 - (iv) any person to knowingly affix to any dog any false or improper identification tag;
 - (v) any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;
 - (vi) any person to furnish any false or misleading information on any form required to be filed with the Town of Durham pursuant to this local law;

- B. It shall be the duty of the Dog Control Officer to bring an action against any person who has committed any violation set forth in this local law pursuant to the Penal Law of the State of New York. 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. Any Dog Control Officer of the Town of Durham 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. In addition, any Dog Control Officer, upon his or her determination that an owner has failed to license any dog within

the Town may impose an administrative fee in accordance with the levels set forth in paragraph 7. C. below.

C. A violation of this section shall be punishable as follows:

- (i) by a fine of not more than two hundred and fifty (\$250.00) dollars, except that
- (ii) when the person was found to have violated any part of this section within the preceding five years, more than \$250.00 dollars, and
- (iii) where the person was found to have committed two or more such violations of any part of this section within the preceding five years, the fine may be more than four hundred (\$400.00) dollars .

Section 8. SEIZURE OF DOGS; REDEMPTION PERIODS; IMPOUNDMENT FEES

A. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Durham shall seize:

- (i) any dog which is not identified and which is not on the owner's premises;
- (ii) any dog which is not licensed, whether on or off the owner's premises;
- (iii) 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 dangerous;
- (iv) any dog found to be without vaccination for rabies; and
- (v) any dog which poses an immediate threat to the public safety.

B. Any dog control officer in the employ of or under contract to the Town of Durham may seize any dog in violation of this local law or any other local law of the Town of Durham relating to the control of dogs.

C. 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.

D. Each dog which is not identified, whether or not licensed, shall be held for a period of at least 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 local and further provided that the owner pays the following impoundment fees:

- (i) the costs associated with the shelter including any cost to the Town charged by the Humane Society or other sheltering contractor, feeding, and care of the dog, plus an

impoundment fee of \$25.00 for a licensed dog and \$100.00 for an unlicensed dog for the first impoundment of any dog owned by that person; and

(ii) the costs associated with the shelter including any cost to the Town charged by the Humane Society or other sheltering contractor, feeding, and care of the dog, plus an impoundment fee of \$50.00 for a licensed dog and \$200.00 for an unlicensed dog for each additional twenty-four hours or part thereof for the second or any subsequent impoundment, within one year of the first impoundment, of any dog owned by that person.

E. 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. When such dog may be immediately returned to the owner, it shall be held for a period of up to thirty (30) days after the date of the mailing or personal notice, during which period the dog may be redeemed by the owner. The owner may redeem such dog upon payment of the impoundment fees prescribed by in Section 8.D. (i-iii) of this local law and by producing proof that the dog has been duly licensed.

F. 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.

Section 9. PRESUMPTION

Establishment of the fact or facts that the owner of a dog failed to properly license and identify his/her dog as licensed shall be presumptive evidence that the owner or person harboring said dog is not in compliance with the provisions of this Local Law.

Section 10. INTERFERENCE WITH OFFICERS

Any person who shall interfere with or obstruct any animal control officer, police officer and any officer or agent of a duly incorporated society for the prevention of cruelty to animals shall be guilty of a misdemeanor, punishable by imprisonment for not more than one year or by a fine of not more than one thousand (\$1,000.00) dollar or both.

Section 11. EFFECTIVE DATE

This Local Law shall take effect upon filing in the Office of the New York State Secretary of State.

Section 12. INCONSISTENT PRIOR LAWS

To the extent that the terms contained in any prior local laws currently in existence are inconsistent with the terms of this local law, the terms contained herein shall supersede the terms of such prior local laws. All other terms of such prior local laws shall continue in full force and effect.