

Resolution #202-10
TOWN OF DUANESBURG

Local Law No. 2 of the Year 2010

A LOCAL LAW SUPERCEDING LOCAL LAW 4 OF
THE YEAR 2009 RELATING TO THE REGULATION
OF DOGS WITHIN THE TOWN OF DUANESBURG

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

SECTION 1. TITLE

This Local Law shall be known as the “Dog Control Law” of the Town of Duanesburg.

SECTION 2. AUTHORITY

This Local Law amends and replaces in its entirety Local Law No. 4 of the Year 2009, and supercedes all prior Local Laws and Ordinances of the Town of Duanesburg relating to the regulation of dogs within the Town of Duanesburg. This Local Law is enacted pursuant to the authority of Chapter 220 of the Laws of 1978, as amended, constituting Chapter 69 of the Consolidated Laws of the State of New York, Article 7, Section 122 of the Agriculture and Markets Law, authorizing towns to enact a local law upon the keeping or running at large of dogs and the seizure thereof and Section 109 of the Agriculture and Markets Law, providing municipalities with control and supervision of licensing of dogs, and pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law.

SECTION 3. PURPOSE

The purpose of this Local Law is to preserve public peace and good order in the Town of Duanesburg and to promote and protect the public health, welfare and safety of its people by enforcing regulations and restrictions on the licensing, identification and activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Duanesburg.

SECTION 4. DEFINITIONS

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

ANIMAL CONTROL OFFICER:

Any individual appointed by the Town of Duanesburg to assist in the enforcement of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town of Duanesburg to assist in the enforcement of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York .

AT LARGE:

An unleashed dog off the premises of the owner.

DOG:

Male or female, licensed or unlicensed, member of the species canis familiaris.

HARBOR:

To provide food or shelter to any dog.

IDENTIFICATION TAG:

A tag issued by the Town of Duanesburg which sets forth an identification number, together with the name of the Town of Duanesburg, the State of New York, contact information, including the telephone number, for the Town of Duanesburg and any other information deemed appropriate by the Town of Duanesburg.

OWNER:

Any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in custody and control of parents or other heads of household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for purposes of enforcing this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York.

PERSON:

Any individual, corporation, partnership, association or other organized group

of persons, municipality, or other legal entity.

TOWN:

The Town of Duanesburg.

SECTION 5. LICENSE AND IDENTIFICATION REQUIREMENTS

A. License Required.

Any owner of a dog four (4) months of age or over in the Town shall make application to the Town Clerk to obtain a current license for said dog in accordance with the requirements of this Local Law.

B. Application.

An application for license or renewal shall be in the form prescribed by the Clerk of the Town and shall provide for the following information:

- (1) The name, residence address and telephone number of each owner;
- (2) The name, sex, actual or approximate age, breed, color markings and other identifying details of the dog;
- (3) Whether the dog has been spayed or neutered;
- (4) The Town identification number of the dog; and
- (5) Such other information or documentation deemed necessary by the Town Clerk to effectuate the purpose of this Local Law and Article 7 of the Agriculture and Markets Law of the State of New York.

C. Rabies Certificate.

Any owner of a dog required to be licensed shall present to the Town Clerk a statement certified by a licensed veterinarian showing that the dog has been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reason, the life of the dog would be endangered by the administration of vaccine.

D. Spay or Neuter Certificate.

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, provided such certificate or affidavit shall not be required if the same is already on file with the Town Clerk or authorized animal control officer. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the

life of the dog would be endangered by spaying or neutering.

E. Enumeration.

The Town Board may, individually or in cooperation with other municipal entities, require its animal control officer or any other authorized agent to ascertain and list the name of all persons in the Town owning or harboring dogs, or in lieu thereof, may contract to have the same done.

F. Licensing Fees.

- (1) The license fee for a spayed or neutered dog and the license fee for an unspayed or unneutered dog shall be set forth on a fee schedule maintained by the Town Clerk, which fees shall include the New York State surcharge for the purpose of carrying out animal population control. Such fees are subject to review by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.
- (2) If the Town Board determines the need for dog enumeration, such a fee, as set forth on a fee schedule maintained by the Town Clerk, will be assessed to all dogs found unlicensed or renewed at the time enumeration is conducted.

G. Issuance of License; Identification Tag.

- (1) Upon validation by the Town Clerk, an application for a dog license indicating a municipal identification number shall become the dog license, a copy of which shall be provided to the owner and a record of its issuance retained in the office of the Town Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.
- (2) No license shall be transferable.
- (3) Each dog licensed by the Town shall be assigned, at the time the dog is first licensed, a municipal identification number. Such municipal identification number shall be indicated on an identification tag which shall be affixed to a collar on the dog at all times.
 - (a) Dogs participating in a dog show are exempt from wearing of a collar during such participation.
 - (b) No tag carrying an identification shall be affixed to the collar of any other dog other than the one to which that number has been

assigned.

- (4) The owner of record of any licensed dog shall notify the Town Clerk:
 - (a) of any change of ownership or in the address of the owner of record within ten (10) days of such change;
 - (b) if the dog is lost or stolen within ten (10) days of such loss or theft; and/or
 - (c) prior to renewal of licensure or upon the time of such renewal of the dog's death.

H. Exemptions.

- (1) Any dog harbored within the Town 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 State 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.
- (2) 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 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.

SECTION 6. REGULATIONS AND RESTRICTIONS

A. It shall be unlawful for any owner of a dog in the Town to permit or allow such dog to:

- (1) Run at large in any street, road, lane, sidewalk and public lands in the Town or other Town property, or upon any private property without the consent of the person entitled to the possession of such property, unless accompanied by and under the control of its owner or a responsible person.
- (2) Be in any Town park at any time whether leashed or unleashed.
- (3) Engage in habitual loud howling or barking or to conduct itself in such manner as to habitually disturb the comfort or repose of any person

other than the owner of such dog, for periods longer than thirty (30) minutes. The provisions of this subsection shall not apply to dogs that are guard dogs or herding dogs on working farms that are covered by the New York State "Right to Farm" Law under Article 25-AA of the New York State Agriculture and Markets Law and similar local laws.

- (4) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- (5) Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation or to put such a person in reasonable apprehension of bodily harm or injury.
- (6) Chase, leap or otherwise harass bicycles or motor vehicles.
- (7) Chase, injure or kill any dog, cat or other household pet or farm animal.
- (8) Deposit any fecal matter on any private property, Town public roadway, gutter, sidewalk, or other public area, or that portion of a front lawn owned by the Town and maintained by the landowner as a front owner, without the consent of the owner of said area.
 - (a) "Fecal matter" under this subsection is defined as all feces, excrement, manure, dung or solid waster matter discharged by a dog. Such soiling action is hereby declared to be a public nuisance.
 - (b) Such soiling action shall be deemed prevented and not a violation of this Local Law if such person shall immediately clean up all such fecal matter and droppings by causing the same to be gathered in a suitable container and disposed of in a safe and sanitary manner.
 - (c) The provisions of this subsection shall not apply to guide dogs, hearing dogs or service dogs accompanying any person with a disability as defined in Subdivision 21 of Section 292 of the Executive Law.
- (9) Not have a current and valid New York tag secured to its collar indicating that the dog has been vaccinated against rabies, with the date of last vaccination marked on the tag, provided that the dog is at least four (4) months old.
- (10) If a female dog, when in heat, be off the owner's premises, and be left

outside unattended.

- B. It shall also be unlawful for any owner of a dog in the Town:
- (1) To fail to license such dog pursuant to this Local Law and Article 7 of the Agriculture and Markets Law of the State of New York.
 - (2) To fail to have such dog identified as required by this Local Law and Article 7 of the Agriculture and Markets Law of the State of New York.
 - (3) To not have a current and valid identification tag affixed to the dog's collar at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.
 - (4) Or any person, to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag.
 - (5) To fail to confine, restrain or present such dog for any lawful purpose pursuant to this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York.
 - (6) To fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog.
 - (7) To fail to notify the Town of any change of ownership or address as required by this Local Law or Article 7 of the New York Agriculture and Markets Law.

C. For the purposes of this Local Law, dogs actually used for the sport of hunting shall be allowed to run at large while engaged in the sport of hunting, provided that said dogs are under the control of their owner or other responsible person, and further provided that said dogs are on property with the knowledge and consent of the owner of said property.

SECTION 7. SEIZURE OF DOGS; REDEMPTION

A. The Animal Control Officer or any peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town, shall seize:

- (1) any dog which is not identified and which is not on the owner's premises;
- (2) any dog which is not licensed, whether on or off the owner's premises;

- (3) any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is a dangerous dog under Section 123 of the New York State Agriculture and Markets Law; and
- (4) any dog which poses an immediate threat to the public safety.

B. The Animal Control Officer or any peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to the Town, may seize any dog not identified under Section 7(A) above and in violation of of any other section of this Local Law.

C. Each dog seized shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

D. Each dog seized which is not identified, whether or not licensed, shall be held for a period of five (5) 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 this Local Law and Article 7 of the Agriculture and Markets Law of the State of New York and further provided that the owner pays the following impoundment fees of thirty (\$30.00) dollars for the first twenty-four hours or part thereof and thirty (\$30.00) dollars for each additional twenty-four hours or part thereof.

E. The owner of record of each identified seized dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notice is personally given, such dog shall be held for a period of five (5) days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for period of seven (7) days from the date of mailing, during which period the dog may be redeemed by the owner. Any identified seized dog may be redeemed upon payment of the impoundment fees of thirty (\$30.00) dollars for the first twenty-four hours or part thereof and thirty (\$30.00) dollars for each additional twenty-four hours or part thereof and proof that the dog has been licensed.

F. Any person claiming ownership of any dog shall be responsible for all additional expenses incurred and deemed necessary to protect the health and welfare of such dog, including the cost of veterinary care.

G. In any case wherein it becomes necessary for the Town, in protecting the health and welfare of its citizens, to remove a dog or dogs to the protection of an animal shelter, the costs incurred for such harboring shall be borne by the owners of said dog or dogs.

H. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized subject to the provisions of the Agriculture and Markets Law of the State of New York. Said owner shall, nevertheless, be responsible to the Town for the impoundment fees and other expenses incurred, including euthanasia fees, should this procedure become necessary. An action may be commenced by the Town to collect all said sums.

SECTION 8. LIMIT ON NUMBER OF DOGS

No person shall own or harbor more than five (5) dogs over four (4) months of age unless the owner operates an approved kennel authorized by a Special Use Permit issued by the Town in accordance with the Town's Zoning Ordinance.

SECTION 9. ANIMALS EXPOSED TO RABIES

Any person who keeps, harbors or has custody, care or control of an animal within the Town known to have bitten by another animal, either wild or domesticated, shall immediately confine the bitten animal and notify the Animal Control Officer or other authorities as prescribed by the New York State Public Health Law and Sanitary Code.

SECTION 10. CONDITIONS FOR KEEPING DOGS

All premises occupied or used by dogs shall be kept in a clean, sanitary and safe condition, and adequate food, water and shelter shall be available. For purposes of this section, "premises" shall include any motor vehicle occupied by a dog and "adequate" shall mean sufficient for age, size and number of dogs on the premises. Failure to provide adequate food, water and shelter shall subject the owners or harborers of dogs to the enforcement provisions of Article 26 of the New York State Agriculture and Markets Law.

SECTION 11. COMPLAINTS, PROCEDURE AND HEARING

A. Any person claiming a violation of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York may make a signed, written complaint to the Town Animal Control Officer or any other Town officer. Such complaint shall specify the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog, and if known, the name and address of the owner or person harboring the dog. Upon receipt of a written, signed complaint, the Animal Control Officer shall notify the owner or harboring of the dog by letter by certified mail or in person, of the objectionable conduct. Failure to accept such letter by the owner or harboring of the dog does not invalidate the notification.

B. Upon reasonable belief by the Animal Control Officer that there has been a

violation of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York, such Animal Control Officer shall issue an appearance ticket requiring the owner or harbinger of the dog to appear before a Town Justice.

C. The Town Justice shall hold a hearing for the purpose of determining whether or not the owner or harbinger of the dog, which is the subject of the complaint, is in violation of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York. If the owner or harbinger of such dog concedes the complaint, or if after a hearing, the Town Justice finds the owner or harbinger of such dog to be in violation, he may, in addition to the penalties hereafter set forth, order the owner or person harboring said dog to confine the dog to the premises of the owner, subject to seizure by the Animal Control Officer for failure to confine said dog.

SECTION 12. INTERFERING WITH ENFORCEMENT

No person shall hinder, resist or oppose the Animal Control Officer, peace officer or other person(s) authorized to administer or enforce the provisions of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York in the performance of the officer's duties under this Local Law or said Article. A violation of this Section shall constitute a violation of this Local Law and said Article and shall be subject to Penalties as stated in Section 13 of this Local Law.

SECTION 13. PENALTIES

A. All court costs and attorney fees incurred by the Town shall be the financial responsibility of the defendant if such defendant concedes the violation of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York or is found in violation of this Local Law or said Article by a Town Justice.

B. A violation of Section 6 of this Local Law or Article 7 of the Agriculture and Markets Law of the State of New York shall be deemed a violation under the New York State Penal Law.

(1) Any person conceding or convicted of such violation shall be fined not less than twenty-five (\$25.00) dollars or more than one hundred (\$100.00) dollars for the first violation, and not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars for subsequent violations within a six (6) month period.

(a) Except that:

(i) where the person was found to have violated this or any former Local Law relating to the regulation of dogs within the Town or Section 118 or former Section 119 of Article 7 of the New York Agriculture and Markets Law

within the preceding five (5) years, a fine of of not less than fifty (\$50.00) dollars or more than one hundred (\$100.00) dollars for the present violation if without a six (6) month period, and a fine of of not less than fifty (\$50.00) dollars or more than five hundred (\$500.00) dollars for the present violation if within a six (6) month period; and

- (ii) where the person was found to have committed two (2) or more such violations within the preceding five (5) years, it shall be punishable by a fine of not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars or imprisonment for not more than fifteen (15) days, or both.

C. Owners or harborers of “dangerous dogs” as defined in Section 108(24) of the Agriculture and Markets Law of the State of New York may also be prosecuted under Section 123 of that law which may subject said owner to additional fines and/or destruction of the dog involved. The Animal Control Officer shall initiate dangerous dog proceedings when warranted pursuant to Section 123 of the Agriculture and Markets Law of the State of New York.

SECTION 14. LIMITATION OF LIABILITY

The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town’s actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a wilful or intentional act of the Town. In addition to the foregoing, the Town shall not be liable or responsible for any destruction of any animal pursuant to this Local Law or the provisions of the New York State Agriculture and Markets Law.

SECTION 15. CONFLICT WITH NEW YORK STATE LAWS

In the event of any conflict between the New York State Agriculture and Markets Law and this Local Law, the provisions of the New York State Agriculture and Markets Law shall take precedence. This Local Law may, pursuant to the New York State Agriculture and Markets Law and Section 10 of the New York State Municipal Home Rule Law, be (a) more stringent than the standards set forth in the New York State Agriculture and Markets Law, and (b) supercede the Agriculture and Markets Law to the extent such Agriculture and Markets Law is silent upon any matter herein regulated, stated, or required.

SECTION 16. SEVERABILITY CLAUSE

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

SECTION 17. PRONOUNS AND PLURALS

Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural, and vice versa.

SECTION 18. EFFECTIVE DATE

This Local Law shall take effect on January 1, 2011.