

**TOWN OF BURNS
LOCAL LAW NO. 5 of 2023
DOG CONTROL LAW**

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

1. Short Title. This law shall be known and shall be cited and referenced as the “Town of Burns Dog Control Law.”

2. Purpose and Intent.

A. The purpose and intent of this law shall be to protect the health, safety and well-being of persons, property, and domestic animals from dog attack and damage by imposing restrictions and regulations upon the keeping of dogs and the running at large of dogs, authorizing seizure of dogs within the Town, providing for appointment of a Dog Control Officer, and providing for the licensing and identification of dogs.

B. This law annuls and supersedes in their entirety Local Law No. 1 of 1988, Titled Town of Burns Dog Control Law, and Local Law No. 1 of 2011, titled Dog Licensing in the Town of Burns.

3. Authority. This law is enacted pursuant to the provisions of Section 122 of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law.

4. Definitions. All terms not specifically defined herein shall have the meaning assigned to such terms within Section 108 of the Agriculture and Markets Law of the State of New York.

A. “At Large” means any dog that is unleashed and on public property or is on private property without the consent of the owner or lessee. No dog shall be deemed to be at large if it is: (1) accompanied by and under the immediate supervision and control of the owner or other responsible person; (2) a police work dog in use for police work; or (3) accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

B. “Harbor” means to provide food or shelter to any dog.

C. “Identification Tag” means a tag issued by the Town Clerk which sets

forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

- D. "Owner" means any person who harbors or keeps any dog.
- E. "Owner of Record" means the person in whose name a dog was last licensed pursuant to this law.
- F. "Town" means the Town of Burns including the Village of Canaseraga.

5. Restrictions. No owner of a dog or any other person harboring a dog within the Town shall permit or allow such dogs to:

- A. Be at large.
- B. Engage in such howling, barking, crying or whining or to conduct itself in such a manner as to annoy a reasonable person, and which does annoy another person.
- C. Cause damage or destruction to property of another without such person's consent or commit a nuisance by defecating or urinating upon the property or person, other than the owner of such dog, without such person's consent.
- D. Chase or otherwise harass any person, in such manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- E. Habitually chase, run along side of or bark at motor vehicles or bicycles, lawfully using a highway or other public places.
- F. Be unrestrained by a leash if the unspayed dog is in heat or if the dog is unneutered.

6. Enforcement. This law shall be enforced by the Town of Burns Dog Control Officer, and such Deputy Dog Control Officers as the Town Board may choose to appoint, who shall be empowered as prescribed by New York State Agriculture and Markets Law §113. The Dog Control Officer shall also administer any responsibilities of the Town for rabies response pursuant to Article 21, Title IV of the New York State Public Health Law, and shall be empowered to respond to nuisance animals and dispose of dead animals.

- A. The Dog Control Officer and Deputy Dog Control Officers shall all be

appointed by and serve at the pleasure of the Town Board.

- B. Neither the Town of Burns Dog Control Officer, nor any Deputy Dog Control Officer, need be a resident or elector of the Town of Burns, provided that she or he resides in Allegany County in the State of New York.
- C. In lieu of or in addition to the appointment of a Dog Control Officer or Deputy Dog Control Officers, the Town may contract with another municipality within Allegany County or an incorporated humane society or similar incorporated dog protective association to provide the services of, and exercise the powers of, the Dog Control Officer.
- D. This law may also be enforced by any police officer.

7. Seizure, Impoundment, Redemption and Adoption.

- A. Any dog found in violation of the provisions of Section 5 of this law, may be seized pursuant to the provisions of Section 117 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods, set forth in Section 117 of the Agriculture and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law by paying the impoundment fees set forth in subdivision (D) of this section.
- D. If the owner of any such redeemed dog is known, such owner shall be required to pay the following impoundment fees whether or not such owner chooses to redeem his or her dog:
 1. \$125 for each dog seized, plus
 2. The then current impoundment fee charged by the Hornell Humane Society or other dog impoundment facility utilized by the Town.

The \$125 impoundment fee will be invoiced by the Town Clerk. The fee paid to the Hornell Humane Society or other dog impoundment facility is paid directly to them upon retrieving the dog.

E. Any dog unredeemed at the expiration of the approximate redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 117 of the Agriculture and Markets Law.

8. Complaint. Except as otherwise provided in this law, any person who observes a dog in violation of this law may file a complaint under oath with the Town Dog Control Officer specifying the nature of the violation, date of the violation, description of the dog and the name of the residents, if known, or the owner of the dog. The Dog Control Officer shall then determine whether to proceed with enforcement of this law.

9. Violations. Any violation of this law may be prosecuted either through the issuance of an appearance ticket as a violation, as defined by the New York Penal Law, or as a civil offense. Such violation shall be punishable as follows:

- A. Where prosecuted as a violation, by a fine of not less than twenty-five dollars or more than two hundred fifty dollars, except that (i) where the person was found to have violated this law or Article 7 of the Agriculture and Markets Law in the preceding five years, the fine shall not be less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the fine shall not be less than one hundred dollars.
- B. Where prosecuted as a civil offense, by a civil penalty of not less than twenty-five dollars, except that (i) when the person was found to have violated this law or Article Seven of the Agriculture and Markets Law in the preceding five years, the civil penalty shall be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty shall be not less than one hundred dollars.
- C. Notwithstanding the above, any violation of section 10(D) of this law regarding rabies vaccination shall be punishable by a fine or civil penalty of not less than two hundred dollars, and any violation of section 10(H) of this law regarding change of ownership, and lost, stolen or deceased dogs shall be punishable by a fine or civil penalty of not less than ten dollars.

10. Dog Licensing and Identification. No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and this law.

- A. All dogs within the Town that are four (4) months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.

- B. Any dog harbored within the Town of Burns which is owned by a resident of New York City or 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.
- C. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town. Alternatively, Town of Burns residents may license their seized dogs at the Hornell Area Humane Society.
- D. As provided by section 2141 of the Public Health Law of the State of New York, unless vaccination would endanger the dog's life, all dogs shall be actively immunized against rabies unless otherwise exempt. Upon request of the Town Clerk or the Town Justice, proof of vaccination against rabies shall be produced within twelve (12) days. 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.
- E. Each license issued shall be valid for a period of one year and shall expire on the last day of the month for the period for which it is issued. No license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed.
- F. Upon validation by the Town Clerk or the Hornell Area Humane Society, a dog license shall be issued 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. Except for the Hornell Area Humane Society, the Town does not allow the licensing of dogs by a shelter. The shelter must send the adoptive dog owners to the Town Clerk of the Town of Burns if this is to be the Town in which the dog is sheltered.
- G. Identification tags.
 - i. The Town Clerk shall assign a permanent official Town identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an

identification tag which shall be affixed to the collar of the dog at all times.

- ii. An identification tag is not required to be worn while the dog is participating in a dog show.
- iii. The official permanent Town identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
- iv. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned
- v. The dog license for any guide, hearing, service, war, working search, detection, police or therapy dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog," "War Dog," "Working Search Dog," "Detection Dog," "Police Dog," or "Therapy Dog," as may be appropriate, by the clerk.

H. Change of Ownership, Lost or Stolen Dogs

- i. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. The original issued identification tag shall remain the same for the life of the dog. A license cannot be transferred to another dog.
- ii. In the event of a change in ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Town Clerk.
- iii. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Town Clerk.
- iv. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of license or upon the time of such renewal.

11 License Fees. The Town Board of the Town of Burns is authorized to establish, by resolution, a schedule of dog license fees, enumeration fees and tag replacement fees as needed throughout the year. For each dog license issued by the Town of Burns, pursuant to Section 109 of the New York State Agriculture and Markets Law, annual fees shall be paid to the Town Clerk in the following amounts:

- A. Six dollars (\$6.00) for each spayed or neutered dog license.
- B. Thirteen dollars (\$13.00) for each unspayed or unneutered dog license.
- C. In addition to the dog license fee established by this Section, each applicant for a dog license shall pay a state Animal Population Control Fund Surcharge of \$1.00 for a spayed or neutered dog, or a fee of \$3.00 if the dog sought to be licensed is unspayed or unneutered.
- D. Each dog found to be unlicensed during a Town dog enumeration, shall be subject to a dog enumeration surcharge of One Hundred Dollars (\$100.00) payable at the time of the application is filed to license said dog.
- E. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner at the owner's expense. Any person wishing to replace a tag previously issued shall pay the sum of Five (\$5.00) Dollars to the Town Clerk for a replacement tag.
- F. Excepted from payment of the license fees established by this Section are applications submitted for a dog license for any guide, hearing, service, war, working search, detection, police or therapy dogs.
- G. When a license is issued for less than nine months, the Town Clerk shall prorate the fee to the nearest whole dollar.
- H. The Town Clerk is not required to send out reminder notices to owners. An additional fee of twenty-five dollars (\$25.00) shall be paid for late license renewals for each year the dog was not licensed. By August 1 of each year, the Town Clerk shall forward a report to the Dog Control Officer listing owners who have not renewed expiring licenses. By September 1 of each year, the Dog Control Officer or the Town Clerk shall then mail or deliver notices advising those owners that if the owner does not, within ten (10) days, renew the license and pay the late fee of twenty-five dollars (\$25.00) for each year the dog was not licensed, or notify the Town Clerk that the dog is deceased or is otherwise no longer subject to licensing in the Town of Burns, an appearance ticket will be issued. Any

such appearance ticket may be served by certified mail, return receipt requested.

12. Severability. If any provision of this law is determined to be unconstitutional or invalid, the validity and enforceability of the remainder shall not be affected.

13. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.