

Town of THURSTON

Local Law No. 1 of the year 2010

A local law DOG CONTROL LAW OF THE TOWN OF THURSTON

Be it enacted by the TOWN BOARD of
..... THURSTON as follows:

SECTION 1. Purpose

The Town Board of the Town of Thurston finds that the running at large and other uncontrolled behavior of licensed and unlicensed 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 keeping and running at large of dogs within the Town.

SECTION 2. Authority

This local law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law of the State of New York.

SECTION 3. Title

The title of this law shall be, "Dog Control Law of the Town of Thurston."

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. Confined. That such animal is securely confined or restrained and kept on the owner's premises, whether within a building, kennel 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.
- c. Dog. Dog shall mean male and female, licensed and unlicensed, members of the species *Canis familiaris*.

d. Dog Control Officer. Any person authorized by the Steuben County Legislature or the Town Board from time to time to enforce the provisions of this local law or the provisions of the Agriculture and Markets Law.

e. Owner. The party purchasing the license unless dog is or has been lost, and such loss reported to the dog 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 a dog 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 dog for the purpose of the local law. In the event any dog found to be 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 dog and shall be responsible for any acts of the said dog and violation of this local law.

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

g. 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.

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

i. Town. Shall designate the area within the corporate limits of the Town of Thurston.

j. Town Clerk. Shall mean the Town Clerk of the Town of Thurston.

k. Harbor. To provide food or shelter to any dog.

SECTION 5. Restrictions

It shall be unlawful and a violation of this Local Law for any owner of any dog in the Town to permit or allow such dog to:

a. Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by a command. For the purpose of this local law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.

b. Engage in habitual loud howling, barking, crying or whining 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 dog.

- c. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property not belonging to the owner of such dog.
- d. 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.
- e. 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 dog.
- f. Create a nuisance by defecating, urinating or digging on public property or private property other than property of the owner or harbinger of said dog.
- g. If a female dog, be off the owner's premises when in heat.
- h. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless said dog is on a leash.

Establishment of the fact or facts that a dog 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 dog that he/she has failed to properly confine, leash or control his/her dog.

SECTION 6. Licensing of Dogs

- a. Licensing Requirement: All dogs in the Town, must be licensed with the Town Clerk by the age of four months and are required to present a one year or three year Certificate of Rabies which is current at the time of licensing or the renewal of an existing license.
- b. Licensing Period: All dog licenses shall be for a period of one year, two years or three years and will expire at the end of the month in which the license was issued, one year, two years or three years, as the case may be, from the date of issue. The length of the term of the license shall be at the option of the owner if approved by the Town Clerk after review of the Rabies Certificate.
- c. License Fees: Unless exempt as set forth in this section, the fee for a spayed or neutered dog is \$7.00 per year licensed (which fee shall include the assessment of \$1.00 surcharge for the purpose of carrying out animal population control) and the fee for an unspayed or unneutered dog is \$15.00 per year licensed (which fee shall include the assessment of \$3.00 surcharge for the purpose of carrying out animal population control).
- d. Enumeration Fee: The Town Board may determine, from time to time, the need for an enumeration of the dog population within the Town. If any dog is found either unlicensed or with an expired license during such enumeration, such dog's owner shall be assessed a fee of \$5.00 in addition to any license fee due for each such dog unlicensed or with an expired license.

e. Review of Fees: The Town Board may periodically review the fees set forth in this Section and may, in its discretion, change such fees by a resolution of the Town Board passed by a majority vote of the Town Board.

f. Purebred License: The Town shall not issue Purebred or Kennel Licenses. All dogs, unless otherwise exempt, shall be individually licensed as set forth hereinabove.

g. Service Dogs: Guide dogs, hearing dogs, service dogs, war dogs, working search dogs, detection dogs, police work dogs, or therapy dogs are exempt from the licensing fees for the Town. However, such dogs must be licensed and shall pay the surcharge of \$1.00 for spayed or neutered dogs or \$3.00 for an unspayed or unneutered dog, which fees are for the purpose of carrying out animal population control. In addition to presenting a current one year or three year Certificate of Rabies, proof of licensed/certified training of such dogs for the within described purposes must be provided to the Town Clerk. 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 or the Dog Control Officer

h. Licensing by Shelters: The Town shall not allow shelters to issue licenses for the Town. If a dog is to be owned or harbored by a resident of the Town, the shelter must send the adoptive dog owners to the Town Clerk or the Dog Control Officer for the purchase of the license.

i. Obtaining Licenses: Licenses may be purchased from the Dog Control Officer, by visiting the Office of the Town Clerk, or by mail. The appropriate fee must accompany any application for a new license or for a license renewal.

j. Refund of Fees: No fees shall be refunded or prorated.

k. Monthly Report: The Town Clerk shall provide a monthly report of dog fee activity to the Town Board. Such report may be included as part of the Town Clerk's monthly report.

SECTION 7. Enforcement

This local law shall be enforced by any dog control officer or peace officer when acting pursuant to his/her special duties.

SECTION 8. Seizure, Impoundment, Redemption and Adoption

a. Any dog found in violation of the provisions of Section 5 of this local law may be seized pursuant to 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 and by paying the impoundment fees set forth below pursuant to Section 117 of said Article:

- i. Forty dollars for the first impoundment of any dog owned by that person;
 - ii. Forty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or
 - iii. Forty-five dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person
- d. If the owner of any unredeemed dog 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 or her dog.
- e. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of Section 117 of the Agriculture and Markets Law.
- f. In the sole discretion of the Dog Control Officer, any licensed dog found running at large may be returned to the owner or harborer of such dog by the Dog Control Officer upon the immediate payment of a flat fee of \$10.00 to the Dog Control Officer at the time of the delivery of such dog. If the owner or harborer fails to pay such fee or refuses to pay such fee or is not available at the time the dog control officer attempts to contact the owner or harborer of such dog, then such dog shall be transported to the shelter and the dog shall be subject to the redemption fees set forth herein for dogs redeemed from the shelter.
- g. No action shall be maintained against the Town, any dog control 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 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 the Agriculture and Markets Law.

SECTION 9. Appearance Ticket

Any dog 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.

SECTION 10. Complaint

- a. Any person who observes a dog 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 dog and the name and residence, if known, of the owner of the dog.
- 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 dog to be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.
2. The dog 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 10 shall be an offense punishable, upon conviction thereof, as provided in Section 11 of this local law.

d. Any action brought against any person for a violation under this local law shall be prosecuted as an action under the penal law.

SECTION 11. PENALTIES

A conviction for a violation of this local law shall be punishable by a fine of not less than twenty-five dollars. A second conviction within five years for a violation of this local law shall be punishable by a fine of not less than fifty dollars. A third conviction within five years for a violation of this local law shall be punishable by a fine of not less than \$100.00 or imprisonment for not more than fifteen days, or both.

SECTION 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.

SECTION 13. Repealer

This local law shall supersede all prior local laws (including, but not limited to, Local Law No. 1 of the year 2001 entitled "Dog Control Law of the Town of Thurston," Local Law No. 1 of the year 2009 entitled "Amending the Dog Control Law of the Town of Thurston," and Local Law No. 2 of the year 2009 entitled "Amending the Dog Control Law of the Town of Thurston,") ordinances, rules and regulations relative to the control of dogs within the city/village/town and they shall be, upon the effectiveness of this local law, null and void.

SECTION 14. Effective Date

This Local Law shall take effect January 1, 2011 or immediately upon adoption and filing as required by the Laws of the State of New York, whichever occurs last.