

**TOWN OF OTISCO  
LOCAL LAW NO. 2 of 2010**

**A LOCAL LAW SUPERCEDING TOWN OF OTISCO  
LOCAL LAW #1 OF 2002  
ANIMAL CONTROL**

**Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:**

Town of Otisco, Local Law #1 of 2002, Animal Control, is repealed and is superceded as follows:

**Section 1. TITLE**

This law shall be known as Town of Otisco 2010 Animal Control Law.

**Section 2. LEGISLATIVE INTENT**

The Town of Otisco Town Board has determined that the behavior of “Domestic Animals”, (as such term is defined in this Local Law), in the Town of Otisco (the “Town”), remains unchecked and uncontrolled so as to cause situations in which residents of the Town have been attacked, harassed, injured or placed in reasonable fear of such harm. Furthermore, this behavior has caused property damage and has created a public nuisance. The purpose of this Local Law is to protect the health, safety and welfare of persons and property within the Town, by imposing laws and regulations regarding the keeping, harboring and maintaining of Domestic Animals within the Town, as well as the imposition of penalties for the violation of such laws and regulations. Additionally, the purpose of this Local Law is to provide for the licensing and identification of dogs, the control of the dog population, and the protection of persons, property, domestic animals and deer from dog attack and damage within the Town of Otisco.

**Section 3. AUTHORITY**

This Local Law is enacted pursuant to the provisions of Section 122 of Article 7, and the 2010 amendments to Article 7 in Part T of Chapter 59 of the Laws of 2010, of the New York State Agriculture and Markets Law. All references in this Local Law to New York State Law shall apply to those sections of such laws which are in effect at the time of the effective date of this Local Law and to any subsequent or similar provisions of New York State Law.

**Section 4. DEFINITIONS**

As used in this Local Law, unless otherwise expressly stated or unless the context or subject matter requires otherwise, the following terms shall have the following meanings:

- (1) *Animal Control Officer* – any person (defined below) appointed by the Town to assist in the enforcement of this Local Law, applicable New York State Law relating to animal control or other applicable law or regulation relating to animal control, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated animal protective association under contract with the Town to assist in the enforcement of this Local Law, applicable New York State Law relating to animal control or other applicable law or regulation relating to animal control (hereinafter an “*Animal Control Officer*”).
- (2) Clerk – references herein are to the Town of Otisco Town Clerk, unless otherwise specified.
- (3) *Dog* – any member of the species *Canis familiaris*.
- (4) *Domestic Animal* – any domesticated Dog, cat, sheep, horse, cattle, deer, llama, goat, swine, fowl, duck, goose, swan, turkey, hare or rabbit, pheasant, bird, reptile or other animal which is harbored for agricultural, business, personal or other lawful purposes or is raised in confinement under license from the Department of Environmental Conservation, except that the varieties of fowl commonly used for cock fights or illegally harbored reptiles, birds or animals shall not be considered Domestic Animals for the purposes of this Local Law.
- (5) *Euthanize* – to bring about death by humane method, but shall not include the usage of a vacuum chamber.
- (6) *Harbor* – to provide food, water, or shelter to any Domestic Animal.
- (7) *Identification Tag* – a tag which sets forth the name of the licensing authority, the Town of Otisco, a reference to the “State of New York,” and Town of Otisco contact information, including telephone number, and an official identification number as required by the provisions of this Local Law, along with any other information deemed relevant by the Town of Otisco.
- (8) *Identified Dog* – any Dog carrying an identification tag as provided in this Local Law.
- (9) *Owner* – any person who harbors or keeps any Dog (hereinafter an “Owner”) and includes an “Owner of Record” (defined below).
- (10) *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 the application of a person under 18 years of age, the Owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any Dog was last licensed or if the Owner of record has filed a statement with the Office of the Town Clerk indicating a change of Ownership, the Owner shall be

deemed to be the Owner of record, except that if the Owner is under 18 years of age, the Owner of record shall be deemed to be the parent or guardian of such person.

- (11) *Person* – any individual, corporation, limited liability company, partnership, association or other group of persons or other legal entity.
- (12) *Guide Dog* – any Dog that is trained to aid a person who is visually impaired and is actually used for such purpose, or any Dog which is owned, or is being trained by a recognized guide Dog training center located within the Town during the period that such Dog is being trained or bred for such purpose.
- (13) *Hearing Dog* – any Dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any Dog which is owned, or is being trained by a recognized training center located within the Town during the period that such Dog is being trained or bred for such purpose.
- (14) *Police Work Dog* – any Dog that is owned or harbored by any municipal police department or by any State or Federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purpose.
- (15) *Service Dog* – any Dog that is trained to aid a person with a disability and is actually used for such purpose, or any Dog which is owned, or is being trained by a recognized training center located within the Town during the period that such Dog is being trained or bred for such purpose.

## **Section 5. LICENSING OF DOGS AND IDENTIFICATION**

(a) Except for Dogs that are included on a Purebred License under the Purebred License provisions of New York Law, on the effective date of this Local Law, the Owner of any Dog six (6) months of age or older shall be required to make application to the Town Clerk for a dog license. At the time of application for a dog license, the Owner shall provide the Town Clerk with either a certificate of vaccination or a written statement by a duly-licensed veterinarian in lieu thereof, that the Dog has been vaccinated for rabies in accordance with New York State Public Health Law §2145. The Owner of any such Dog may make application for a license with the Town Clerk during the normal business hours of the Town Clerk on forms prescribed by the Town Clerk for such purpose. The Owner shall pay all requisite fees, then in effect, to the Town Clerk upon making an application for a dog license.

(b) Upon the first application for a dog license, the Dog shall be assigned an identification number which shall be displayed on an identification tag which shall be affixed to a collar on the Dog at all times.

(c) Upon the issuance of a dog license by the Town Clerk, the license shall be valid for one (1) year from the date of issuance. Upon expiration of the dog license, the Owner shall make application for a current license with the Town Clerk as provided in this Section.

## **Section 6. LICENSE FEES AND SURCHARGES**

(a) A License Fee schedule shall be established by resolution of the Town Board of the Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the licensing of dogs, impound fees, and other actions of the Enforcement Officer described in, or contemplated by this Local Law.

(b) In addition to any fee paid to the State of New York for the issuance of a Purebred License, a Town fee of \$25.00 per Purebred License shall also be paid to the Town Clerk upon the issuance of each New York State Purebred License to offset costs incurred by the Town.

(c) Where the owner submits a statement certified by a licensed veterinarian stating that the veterinarian has examined the dog and found that because of old age or some other reason, the life of the dog would be endangered by spaying or neutering, the license fee shall be the same as a spayed or neutered dog.

(d) In addition to the license fee established in subsection (a) of this Section, each applicant for a dog license shall pay a surcharge for each spayed or neutered dog, or a separate surcharge for each unspayed or unneutered dog, as set forth by Town Board Resolution. The amounts collected through this surcharge shall be used for the purposes of carrying out animal population control efforts. Where the owner submits a statement certified by a licensed veterinarian stating that the veterinarian has examined the dog and found that because of old age or some other reason, the life of the dog would be endangered by spaying or neutering, the license fee shall be the same as a spayed or neutered dog for the purposes of this surcharge.

(e) In addition to the license fee established in subsection (a) of this Section, and the surcharge described above in subsection (d) of this Section, it is within the Town Board's discretion to assess against each applicant for a dog license an additional surcharge as set forth by Town Board Resolution. The amounts collected through this surcharge shall be retained by the Town to defray the cost of an enumeration of dogs living within the Town and the cost of providing replacement identification tags. The Town may also assess an additional fee against any person applying for a dog or purebred license for a dog identified as unlicensed during an enumeration conducted by the Town.

(f) There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog, or therapy dog, as those terms are defined in Section 108 of Article 7 of the New York State Agriculture and

“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 Clerk.

(g) Any dog owner presenting sufficient proof that such dog owner is 65 years of age or over may be entitled to pay a lower annual license fee, as set forth by Town Board Resolution.

## **Section 7. CONFINEMENT**

Every Owner of a Dog which is present in the Town of Otisco shall be required to harbor, keep or otherwise maintain any such Dog in the following manner:

(a) Every Dog shall be leashed, tethered or confined as provided in this Section unless it is on property owned or leased by the Owner of the Dog or unless permission for such presence on other property has been obtained, and the Owner of the Dog, or other responsible person of sufficient age, size, strength and ability to effectively control and restrict the movements of such Dog (hereinafter a “responsible person”), is accompanying the Dog. This subsection shall not apply to guide Dogs, hearing Dogs, service Dogs or police work Dogs.

(i) Any leash used shall be a securely fastened restraint of not more than ten (10) feet in length and shall be held by a responsible person.

(ii) A Dog shall be tethered by a leash, cord, chain, rope or other such device attached to a fixed immovable object, so as to ensure that the Dog remains more than twenty-five (25) feet away from any property line, public street, road, highway, sidewalk, other thoroughfare used for pedestrian or vehicular traffic or a driveway, parking lot, easement or right-of-way used in common with others. This Section shall not apply to private driveways or parking lots which are owned or leased and used exclusively by the Owner of the Dog or by another person where permission for such presence has been obtained.

Tethering devices shall be of sufficient size, material and constructions so as to reasonably assure compliance with this Section.

(iii) Dogs that are not leashed or tethered as provided in this Section shall otherwise be confined within a secure enclosure of sufficient size and construction to prevent the Dog from scaling, jumping over, crawling under, or breaking through or which will prevent the Dog from otherwise escaping such enclosure. The use of invisible fencing or similar restraining devices shall also be permitted so long as there is no history of the failure of such devices to restrain an Owner’s Dog.

(b) If a Dog is a female in heat, the Owner shall confine such Dog during the period when it is in heat (except for intentional breeding purposes, discussed below) inside the Owner’s home or other secured building, unless the Dog is being exercised by the Owner or by another responsible person while on a leash as required in this Section.

The Owner of a Dog which is in heat and is being bred, shall confine such Dog to secured areas which shall prevent such Dog from coming into contact with other Dogs or animals other than any Dog which the Owner intends to breed with the female Dog in heat.

## Section 8. VIOLATIONS

1. It shall be unlawful for any Owner or any other person keeping, harboring or maintaining a Dog in the Town, to permit or allow any Dog to:

(a) run at large – which shall mean permitting or allowing a Dog to stand, run, walk or otherwise remain unleashed, untethered or not confined as provided in Section 6, above, and roaming and unrestrained on property open to the public, or on private property not owned or leased by the Owner of the Dog or where there is no permission to be on such property, or on property owned or leased by the Owner of the Dog or on other property where permission for such presence on such other property has been obtained and the Owner of the Dog, or other responsible person, is not accompanying the Dog. It shall not be a violation of this Section if the Dog is: (a) a guide Dog, service Dog or hearing Dog actually assisting its Owner or a disabled person; (b) a police work Dog in use for police work; or (c) a Dog accompanied by its Owner or other responsible person which is actively engaged in hunting or training for hunting on property owned or leased by the Owner on unposted land, or on posted land with the permission of the owner of the land. Any damage or injury to any persons, property, or Dogs caused by a Dog while running at large, shall be the responsibility of the Owner of the Dog which is running at large.

(b) bark or howl excessively – which shall mean permitting or allowing a Dog to bark, howl, yelp, whine, cry or emit any other unreasonable noise habitually, or for a continuous period of time so as to disturb the peace and quiet of a reasonable person of normal sensitivities during the day or night.

(c) harass or threaten any person where such person may lawfully be, in such a manner as to cause a reasonable person to be intimidated or to be in fear of bodily harm or injury.

(d) attack, bite or chase any human being in such a manner as to put such person in reasonable apprehension of bodily harm or injury, to attack, bite or chase any Domestic Animal where it may be lawfully found, to attack, bite or chase any undomesticated animal except for lawful hunting purposes, or to chase any motor vehicle.

(e) lack a valid license as provided for in Section 5 of this Local Law, above.

## Section 9. ENFORCEMENT

1. An Animal Control Officer, member of the Onondaga County Sheriff's Department, New York State Police Department, New York State Department of Environmental Conservation or other municipal police department, or any other official authorized by the Town, shall be authorized to enforce this Local Law. The Animal Control Officer shall have all the powers of a peace officer in enforcing the provisions of this Local Law, applicable New York State Law relating to animal control or other applicable law or regulation relating to animal control, and may serve any process related to any proceeding, whether criminal or civil in nature, including the issuance of an appearance ticket or a summons in accordance with the provisions of this Local Law and the New York State Agriculture and Markets Law. When an Animal Control Officer does not personally witness an act for which an appearance ticket may be issued, the complainant shall make a sworn, written complaint to the Animal Control Officer, or to such other enforcement official as described in this Section, before an appearance ticket or summons shall be issued.

2. Notwithstanding the any other provisions of this Local Law to the contrary, upon a showing of a good faith effort of compliance with this Local Law, minor, isolated violations of this Local Law may be waived at the discretion of the Animal Control Officer, or other applicable enforcement officer or agency.

## Section 10. PENALTIES FOR VIOLATIONS

1. The failure of an Owner to license a Dog, or to renew a dog license, shall result in the following legal proceedings, fines or other punishment as prescribed by applicable law, including, but not limited to the following:

- 1<sup>st</sup> Violation: Appearance Notice and Court appearance - minimum \$50.00 fine if found guilty;
- 2<sup>nd</sup> Violation within five (5) years of the 1<sup>st</sup> violation: Criminal Summons and Court appearance - minimum \$100.00 fine if found guilty;
- 3<sup>rd</sup> Violation within five (5) years of the 1<sup>st</sup> violation: Criminal Summons and Court Appearance - minimum \$150.00 fine if found guilty.

2. Except as specifically provided herein, any other violation of this Local Law shall be an offense punishable upon conviction thereof by a fine of not more than \$100.00 or imprisonment for not more than 15 days per violation; provided, however, nothing in this Section shall prohibit a Court from imposing other penalties deemed appropriate and in accordance with the laws of the State of New York.

3. The fines set forth in subsections (1) and (2), above, shall be minimum fines and are subject to modification by the Town Board.

## Section 11. SEIZURE AND IMPOUNDMENT

1. An Animal Control Officer or any other appropriate peace officer shall seize and impound in an animal shelter designated by the Town Board, any Dog which is found:

- (a) to be unlicensed, on or off property owned or leased by the Owner of the Dog; or
- (b) not to be wearing the required identification tag and off the property owned or leased by the Owner of the Dog; or
- (c) to be unleashed, untethered or not confined as provided in Section 7, above, whether or not such Dog is wearing the required identification tag, except where found on property owned or leased by the Owner of the Dog or on other property when permission for presence has been obtained, and the Dog is accompanied by its Owner or other responsible person; or
- (d) in the judgment of an Animal Control Officer or peace officer, to present a danger to persons, property, other Domestic Animals, undomesticated animals, public health, welfare or safety.

2. If a Dog is seized pursuant to this Section, the Animal Control Officer shall attempt to ascertain the identity of the Owner of the Dog and shall notify the Owner as soon as reasonably possible, pursuant to New York State Agriculture and Markets Law §117(6), of the Owner's Dog being seized and that the Dog will be eligible for adoption or shall be euthanized, unless appropriately redeemed.

3. The owner of any dog impounded by the Town of Otisco shall be entitled to redeem that dog within five (5) business days, excluding the day the dog is impounded, from the day the dog is impounded. The following shall apply to the redemption of seized Dogs:

- (a) An unidentified Dog, whether or not licensed, shall be held for a period of not less than five (5) days from the day seized, during which time the Dog may be redeemed by its Owner, provided that such Owner produces proof that the Dog has been licensed and is an identified Dog as provided in this Local Law or applies for, and receives such a license from the Town Clerk within such five (5) day period.
- (b) Any unidentified Dog remaining unredeemed after five (5) days from the day it was seized shall be made available for adoption or shall be euthanized. Any identified Dog shall be held pursuant to the provisions of New York State Agriculture and Markets Law §117(6), before being euthanized or made available for adoption.



(c) Upon redemption of a Dog, the Owner shall be responsible for the following fees to offset costs incurred by the Town, to be paid to the Town at the time of redemption. These fees shall be in addition to any other penalties imposed for the violation of this Local Law and are subject to modification by the Town Board:

-- \$35.00 per Dog for the first impoundment of any Dog owned by the Owner and the regular rate charged by the animal shelter for each additional 24 hours of impoundment.

-- For the second impoundment within one (1) year of the first impoundment of any Dog owned by the Owner, \$50.00 per Dog for the first 24 hours of impoundment, with an additional \$3.00 charge for each additional 24 hours of impoundment; and

-- For the third and subsequent impoundments of any Dog owned by the Owner within one (1) year of the first impoundment, \$60.00 per Dog for the first 24 hours of impoundment, with an additional \$3.00 charge each additional 24 hours of impoundment.

-- Any charges associated with veterinary or extraordinary care provided to the Dog while impounded in, or in the custody of the shelter.

(d) If an identified Dog remains unredeemed and is subsequently adopted or euthanized, the Owner shall be responsible for the costs incurred for the housing and care of the Dog while sheltered as provided in subsection 3(c), above. If the Owner validly surrenders ownership of the Dog to the pound or shelter, the Owner shall be responsible only for those costs incurred up to the date of surrender as provided in this Section.

4. No action shall be maintained against the Town, any duly designated Animal Control Officer, or any other officer or agent of the 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.

5. The seizure of any Dog shall not relieve any Owner from liability for any violation, penalty, fees, or expenses provided for in this Local Law.

## **Section 12. DANGEROUS DOGS**

1. For the purposes of this Section, dangerous Dogs shall mean:

(a) Any Dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings who are peacefully conducting themselves in any place where they

lawfully may be, or to Dogs while such Dogs are found in any place where they may lawfully be; or

- (b) Any Dog which attacks a human being without provocation and said human being is peacefully conducting himself or herself where they may lawfully be; or
- (c) Any Dog which attacks a Dog, Domestic Animal or an undomesticated animal without provocation and said Domestic Animal or undomesticated animal is peacefully conducting itself where it may lawfully be; or
- (d) Any Dog which is owned or harbored primarily, or in part, for the purpose of dog fighting or any Dog trained for fighting; or
- (e) Any Dog that would be deemed a “dangerous dog” pursuant to New York State Agriculture and Markets Law §123.
- (f) A dangerous Dog shall not include a police work Dog.

2. Enforcement, violation and penalties under this Section shall be governed by the provisions of the New York State Agriculture and Markets Law.

### **Section 13. OTHER DANGEROUS DOMESTIC ANIMALS**

1. It shall be a violation of this Local Law for any person to keep, harbor or maintain any Domestic Animal or other animal, bird or reptile (hereinafter collectively referred to as an “animal”) with a known propensity, tendency or disposition to chase, attack, or bite any human being, Domestic Animal or undomesticated animal, or to act towards any human being in such a manner as to put such person in reasonable apprehension of bodily harm or injury, or to otherwise allow such an animal to engage in such activity. An Animal Control Officer or peace officer shall seize and impound any such animal, if in the officer’s judgment, the animal presents a danger to persons, property, Domestic Animal or undomesticated animal, public health, welfare or safety. The Owner shall be responsible for any costs associated with the seizure, impoundment, veterinary or extraordinary care or disposition of any such animal.

2. If an Animal Control Officer or peace officer deems that an animal poses an immediate threat to persons, property, other animals or to the public health, welfare, or safety, the Animal Control Officer or peace officer shall be authorized to take such other and further action as is authorized by New York State Law.

3. No action shall be maintained against the Town, any duly designated Animal Control Officer or any other officer or agent of the Town to recover the possession or value of any such animal for damages for injury or compensation for the destruction of any animal seized or destroyed pursuant to the provisions of this Section.

#### **Section 14. EXEMPTIONS FROM THIS LAW**

A. Any dog harbored within the Town of Otisco which 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.

B. This Local Law shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational institution or research institution.

C. This Local Law shall not apply to any dog confined to the premises of any person, firm, or corporation engaged in the business of breeding or raising dogs for profit and licensed as a Class A dealer under the Federal Laboratory Animal Welfare Act.

#### **Section 15. CONFLICT WITH OTHER LAWS.**

This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions including, but not limited to, the statutes set forth in the New York Town Law.

#### **Section 16. SEVERABILITY.**

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph, section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

#### **Section 17. PRIOR LAW**

Upon the effective date of this Local Law, this Local Law shall repeal Local Law No. 1 of 2002 of the Town of Otisco, and shall supercede the provisions of any prior Town Local Law, Ordinance or Regulation which are inconsistent with the terms of this Local Law.

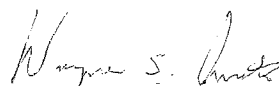
#### **Section 18. EFFECTIVE DATE**

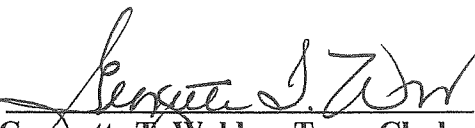
This Local Law shall take effect immediately upon its filing in the Office of the Secretary of State in New York State, in accordance with the provisions of New York State Municipal Home Rule Law §27.

Town Board of the Town of Otisco

December 13, 2010

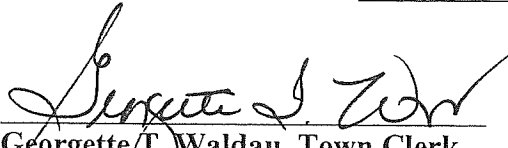
Be it so Ordered by the Town Board of the Town of Otisco.

  
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Wayne S. Amato, Town Supervisor

  
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Georgette T. Waldau, Town Clerk

STATE OF NEW YORK, COUNTY OF ONONDAGA  
TOWN OF OTISCO

I, the undersigned, Town Clerk of the Town of Otisco, do hereby certify that the above Local Law is a true and accurate copy of the original Town of Otisco, Local Law # 2 of 2010 for the Town of Otisco 2010 Animal Control Law, which was passed and adopted by the Town of Otisco Town Board after a Public Hearing at a meeting of the Town Board of the Town of Otisco, State of New York, on December 13, 2010, and same was filed in the office of the Town Clerk on December 13, 2010.

  
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Georgette T. Waldau, Town Clerk

Dated: December 13, 2010.