

LOCAL LAW NO. _____ OF 2021

**LOCAL LAW AMENDING QUEENSBURY TOWN CODE
RELATING TO DOG CONTROL**

Be it Enacted by the Queensbury Town Board as Follows:

Section 1: The name of this Local Law is: *A Local Law to Repeal Chapter 5 of the Code of the Town of Queensbury and to Replace Chapter 73 of the Code of the Town of Queensbury in its Entirety.*

Section 2: Chapter 5 of the Code of the Town of Queensbury is repealed in its entirety.

Section 3: Chapter 73 of the Code of the Town of Queensbury is repealed in its entirety and is replaced with the following:

Chapter 73 - Dog Control

§73-1 Purpose.

The Queensbury Town Board finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons and damage to property and has created nuisances within the Town. The purpose of this Chapter is to protect the health, safety and well-being of the persons and property by imposing restrictions on the keeping and running at large of dogs within the Town and to ensure compliance with Article 7 of the New York State Agriculture and Markets Law regarding the licensing, identification and control of dogs.

§73-2 Statutory authority.

This Chapter is enacted pursuant to the provisions of Article 7 of the New York State Agriculture and Markets Law, New York State Town Law and the New York State Municipal Home Rule Law.

§73-3 Title.

The title of this Chapter shall be “Dog Control Law of the Town of Queensbury”.

§73-4 Definitions.

As used in this Chapter, the following words shall have the following respective meanings:

- A. “Clerk” means the Queensbury Town Clerk.
- B. “Dog” means any member of the species *canis familiaris*.
- C. “Dog Control Officer” means any individual appointed by the Town Board to administer and enforce this Chapter and Article 7 of the State Agriculture and Markets Law and/or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town to assist in the administration and enforcement of this Chapter and Article 7 of the State Agriculture and Markets Law.
- D. “Euthanize” means to bring about death by a humane method.
- E. “Guide dog” means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog during the period such dog is being trained or bred for such purpose.
- F. “Harbor” means to provide food or shelter to any dog.
- G. “Identification tag” means a tag issued by the Town of Queensbury in connection with the licensing of a dog, which sets forth an identification number, together with the name of the municipality, the State of New York, contact information, including telephone number, for the municipality and such other information as the Town deems appropriate.
- H. “Identified dog” means any dog carrying an Identification Tag as defined above.
- I. “Owner” means any person who harbors or keeps any dog.

- J. "Owner of record" means the person in whose name any dog was last licensed pursuant to this Chapter, 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. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the Agriculture and Markets Law Section 112, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.
- K. "Person" means any individual, corporation, partnership, association or other organized group of persons, or other legal entity.
- L. "Run at large" means to be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.
- M. "Town" means the Town of Queensbury.
- N. "Hearing dog" means any dog that is trained to aid a person who is deaf or hard of hearing and is actually used for such purpose, or any dog during the period such dog is being trained or bred for such purpose.
- O. "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.

The Definitions set forth at New York State Agriculture and Markets Law Section 108 shall also be incorporated herein.

§ 73-5 Powers and duties.

The Dog Control Officer is hereby authorized and empowered and is assigned and delegated the following duties and responsibilities:

- A. Patrolling the Town of Queensbury by vehicle and on foot and receiving all complaints from citizens by telephone, in person or through the mail concerning nuisance, stray, running at large and/or sick, disabled, injured or dead dogs.

- B. Responding to observations of or complaints concerning nuisance, stray, running at large dogs and/or sick, disabled, injured or dead animals as follows:
1. In the case of dogs under the regulation and affected by Agriculture and Markets Law Article 7 and this Chapter, the Dog Control Officer shall have all power, authority, duties and/or responsibilities set forth in those aforesaid laws, and the Dog Control Officer shall generally assist in, administer and enforce the provisions of those laws.
 2. In the case of dead dogs existing along state, county and Town roadways or upon public properties, assist in or arrange for the picking up and disposing of the dead animals in accordance with the requirements of the Environmental Conservation Law and other laws of the State of New York. The Town Board of the Town of Queensbury may, by resolution, further clarify and identify the exact responsibilities of the Dog Control Officer and other Town departments with regard to this task.
 3. In the case of dogs that are seized or captured in accordance with the provisions of this Chapter or the Agriculture and Markets Law Article 7, assist in arranging for the care and disposition of the same in accordance with the aforesaid laws or, if no guidance is found in said laws, by turning the same over to the proper animal pound, animal hospital or humane society or other appropriate institution.
 4. In the case of dogs that are seized or have died, determine whether the animals are marked or carry some sort of identification indicating the identity of the owners and, if such identification is present, notify the owners of the status of the dog.
- C. Assisting in the arrangement of a quarantine or the removal for impounding and testing of any dog when concerns for rabies exposure is present.
- D. Maintaining records of work performed, including a record of all dogs impounded at the Officer's direction, and/or those dead dogs picked up and disposed of.
- E. Enforcing the provisions of Article 7 of the Agriculture and Markets Law and Chapter 73 of the Code of the Town of Queensbury by issuing appearance tickets, pursuant to the Criminal Procedural Law, serving a summons and serving and executing any other order or process in the execution of the provisions of said Chapter 73 and New York State Agriculture and Markets Law Article 7. The Dog

Control Officer shall also assist in the filing of complaints by persons other than the Dog Control Officer, as provided for by this Chapter and Agriculture and Markets Law Article 7.

- F. Performing such other additional and further duties that the Town Board may determine by resolution.

§73-6 Licensing of dogs required; rabies vaccination required.

- A. The owner of any dog reaching the age of four months shall immediately make application to the Town Clerk for a dog license. No license shall be required for any dog which is under the age of four months and which is not at large, or that is residing in a pound or shelter maintained by or under contract or agreement with the Town, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective association.
- B. The license application shall be accompanied by the license fee and a certificate of rabies vaccination or statement in lieu thereof by a licensed veterinarian stating that the life of the dog would be endangered by administration of the vaccine. In the case of a spayed or neutered dog, every application shall also 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 Clerk, or statement in lieu thereof by a licensed veterinarian stating that the life of the dog would be endangered by spaying or neutering.
- C. All dogs' licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.
- D. The licensing fee for a spayed or neutered dog is \$10, which includes a \$1 surcharge for the purpose of carrying out the New York State Animal Population Control Program. The fee for an unspayed or unneutered dog is \$15, which includes a \$3 surcharge for the purpose of carrying out the New York State Animal Population Control Program. The fee for replacing a lost license tag is \$3.

- E. Licensing fees for persons age 65 and over is \$5 for a spayed or neutered dog, which shall include a \$1 surcharge for the purpose of carrying out the New York State Animal Population Control Program, and is \$10 for an unspayed or unneutered dog, which includes a \$3 surcharge for the purpose of carrying out the New York State Animal Population Control Program. The fee for replacing a lost license tag is \$3.
- F. The Town of Queensbury does not issue purebred or kennel licenses. All dogs must be individually licensed as set forth above.
- G. Any guide dog, service dog, hearing dog or detection dog, as those terms are defined at § 108 of Article 7 of the New York State Agriculture and Markets Law, must be licensed, but is exempt from license fees.
- H. All licenses for dogs sheltered within the Town of Queensbury must be obtained from the Town Clerk. No shelter, kennel or other entity is authorized to issue dog licenses. Any shelter placing a dog for adoption must refer the adoptive dog's owners to the Town Clerk to obtain a license. All shelters within the Town must maintain a record of all dogs sold or adopted and must provide such information to the Town Clerk upon request.
- I. All dog licenses may be purchased by visiting the Town Clerk's Office or by mail. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There shall be no refund of fees.
- J. Upon validation, the Clerk shall: (i) provide a copy of the license to the owner, and (ii) retain a record of the license, which shall be made available upon request to the New York State Commissioner of Agriculture and Markets for purposes of rabies and other animal disease control efforts and actions.
- K. No license is transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.
- L. In the event of change of ownership, change of address, loss or death of a dog licensed hereunder, the owner of record shall so advise the Clerk in writing within ten days.

M. All fees shall be used in funding the administration of the Dog Control Law of the Town of Queensbury.

§73-7 Identification tags to be worn.

At the time the dog is first licensed, the Town shall issue that dog an identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

§73-8 Prohibited conduct.

- A. It shall be a violation of this Chapter for any person, including the owner of a dog or a custodian or other person exercising control over that dog in the absence of the owner, to permit or allow such dog to:
1. Run at large unless the dog is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this Chapter, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner. For purposes of this paragraph, "full control" includes the ability to promptly bring a dog to heel.
 2. Engage in habitual and loud howling, barking, crying or whining or conduct as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog. It shall not be a defense that the identity of the specific dog engaged in this prohibited conduct cannot be established.
 3. Chase, jump at or upon or otherwise harass any person, or any pet in the company of such person, in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm to him or her-self or such pet.

4. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property.
 5. If a female dog, when in heat, be off the owner's or custodian's premises unrestrained by a leash.
 6. Defecate on public property within the Town, or private property within the Town unless with the property owner's consent, unless such defecation is immediately removed.
 7. Be without its identification tag off of the owner's premises.
 8. To be unlicensed within the Town as required in §73-5 (applicable to owner only). It shall not be a defense that the identity of the specific unlicensed dog cannot be established.
 9. To wear an identification tag identifying another dog.
- B. It is unlawful for any person to:
1. Fail to confine, restrain or control such dog off of the premises of such person.
 2. 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.
 3. Furnish any false or misleading information on any form required to be filed with the Town pursuant to the provisions of this Chapter.
 4. Fail to notify the Town Clerk of any change of ownership or address of the owner, or of the death or transfer of ownership of a dog licensed by the Town.
 5. Violate any other of the requirements of this Chapter or of Article 7 of the New York State Agriculture and Markets Law.

§73-9 Seizure of dogs; redemption periods; impoundment fees; adoption.

- A. Any dog control officer or peace officer, acting pursuant to his or her special duties, 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 dog which is not in the control of its owner or a custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is dangerous; and
 4. any dog which poses an immediate threat to the public safety.
- B. Any dog control officer or peace officer, acting pursuant to his special duties, may seize any dog in violation of this Chapter or Article 7 of New York State Agriculture and Markets Law.
- C. Each dog so seized shall be properly sheltered, fed and watered for the redemption period.
- D. Each dog which is not identified, whether or not licensed, shall be held for a period of 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 Chapter and further provided that the owner pays the impoundment fees set by the Town.
- 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 seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven 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 a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment and boarding fees set forth in this Chapter and by producing proof that the dog has been 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 or euthanized to the extent permitted by law. The cost of boarding and all medical expenses incurred shall be paid by the owner
- G. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this Chapter or Article 7 of the State Agriculture and Markets Law.

H. If any dog is seized and impounded in accordance with this Chapter or Article 7 of the Agriculture and Markets Law, an impoundment fee shall be imposed for the first impoundment of any dog owned by that person of \$25 per dog. For a second impoundment of any dog owned by that person, the fee shall be \$50 per dog, and for a third or subsequent impoundment of any dog owned by that person, the fee shall be \$75 per dog. In addition to the impoundment fees, the dog owner shall pay the daily room and board for the dog(s). If a dog is euthanized, the owner shall be responsible for such fees in addition to all other fees.

§73-10 Penalties.

A violation of this Chapter is a violation as defined in Article 10 of the New York Penal Law, and is punishable by a fine of not less than one hundred dollars and not more than one hundred fifty dollars, except that (i) where the person was found to have violated this Chapter (as from time-to-time amended) or Article 7 of New York State's Agriculture and Markets Law, within the preceding five years, the fine may be not less than one hundred fifty dollars and no more than two hundred fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than two hundred fifty dollars and/or imprisonment for not more than fifteen days, or both.

Section 4. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 5. All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

Section 6. This Local Law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.

**NOTICE OF PUBLIC HEARING ON PROPOSED LOCAL LAW
AMENDING QUEENSBURY TOWN CODE RELATING TO DOG CONTROL**

NOTICE IS HEREBY GIVEN that the Queensbury Town Board will hold a public hearing on Monday, May 3rd, 2021, beginning at 7:00 p.m. at Queensbury Town Hall, 742 Bay Road, Queensbury, New York 12804 concerning proposed Local Law No.: ___ of 2021. The proposed Local Law No.: ___ of 2021 would repeal Chapter 5 (Animal Control Officer) and repeal and replace Chapter 73 (Dog Control), effectively combining these Chapters, and setting forth the law and procedure for dog control in and by the Town.

A copy of the proposed Local Law is on file in the Town Clerk's Office and may be made available for review by contacting the Town Clerk at 518-761-8234 and is also available for review on line at the Town of Queensbury's website at www.queensbury.net.

PLEASE TAKE FURTHER NOTICE that all interested parties will be heard at this time and place.

Dated: April 23, 2021

CAROLINE H. BARBER
Town Clerk
Town of Queensbury