

UPDATED  
10/30/18

LOCAL LAW

TOWN OF WIRT

LOCAL LAW NO. 3 FOR THE YEAR 2019

A LOCAL LAW ENTITLED DOG CONTROL LAW OF THE TOWN OF WIRT

Section 1. Purpose

a. The Town Board of the Town of Wirt finds that it is necessary for the health, safety and wellbeing of the public for the Town Board to adopt certain regulations pertaining to the licensing of dogs based on the new responsibilities it is required to carry out. Effective January 1, 2019, said regulations will provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

b. The Town Board of the Town of Wirt finds that it is necessary for the fiscal soundness of the Town of Wirt to authorize certain fees and charges for the duties of whom the Town is required to carry out exclusively pertaining to the licensing of dogs.

c. The Town Board of the Town of Wirt (the "Town") 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.

b. The Town, by this Local Law, repeals and replaces Local Law No. 2 for the year 2010, A Local Law entitled "Dog Control Law of the Town of Wirt".

Section 2. Authority

This Local Law is enacted pursuant to the provisions of Section 124 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 Wirt."

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 or female, licensed or unlicensed, members of the species *Canis Familiaris*.

d. Dog Control Officer. Any person authorized by the Allegany County Legislature or the Town Board of said town 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 the 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 in 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 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 situated within the Town which is used for educational purposes or purposes incidental thereto.

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

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

k. Notify clerk if dog is deceased, gone or sold so the corrections can be made on municipal records.

#### Section 5. Licensing of Dogs

All dogs in the Town of Wirt, unless otherwise exempted by New York State Agriculture and Markets Law, must be licensed with the Town Clerk of the Town of Wirt by the age of four (4) months.

## Section 6. Application

The owner of each dog required to be licensed shall, for new applications and renewal applications, obtain, complete and return to the Town Clerk:

- a. A dog license application;
- b. The license application fee;
- c. Any applicable license surcharges;
- d. Such additional fees as may be established by the Town Board of the Town of Wirt;
- e. 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;
- f. In the case of a spayed or neutered dog, 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. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he or she 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. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog.

## Section 7. Identification Tag

Each dog licensed pursuant to this Law shall be assigned a municipal identification number at the time the dog is first licensed. Such identification number shall be carried by the dog on an identification tag which shall always be affixed to a collar on the dog. 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.

## Section 8. License Term

All dog 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.

Section 9. Licenses Non-Transferable

Any license issued pursuant to this Law shall not be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a new license for such dog in their township of residence.

Section 10. Shelters, Purebred Licenses Guide Dog, Service Dog, Hearing Dog or Detection Dog Tag:

- a. The Town of Wirt will not issue purebred licenses.
- b. The Town of Wirt will not issue a special tag for identifying any guide dog, service dog, hearing dog or detection dog.
- c. The Town of Wirt does not allow the licensing of dogs by a shelter and does not permit shelters in the Town. A shelter must send the adoptive dog owners to the Town Clerk of the town or city in which the dog will be harbored for licensing.

Section 11. Fees and Surcharges:

The fees and surcharges for issuing dog licenses shall be fixed by the Town Board. Such fees and surcharges may from time to time be changed as the Town Board may determine. These fees and surcharges are:

- a. For up to four (4) dogs:
  - i. The license fee for a spayed or neutered dog is \$7.00. A \$5.00 fee will be charged for the replacement of lost dog tags.
  - ii. The license fee for an unsprayed or an unneutered dog is \$14.00. A \$5.00 fee will be charged for the replacement of lost dog tags.
  - iii. In addition to the license fee authorized by this law and established by the Town Board of the Town of Wirt, a surcharge **if** the dog to be licensed **is** altered (such surcharge shall be, at a minimum, such amount as mandated by the New York State Agriculture and Markets Law);
  - iv. In addition to the license fee authorized by this law and established by the Town Board of the Town of Wirt, a surcharge **if** the dog to be licensed **is not** altered (such surcharge shall be, at a minimum, such

amount as mandated by the New York State Agriculture and Markets Law);

- v. In addition to the license fee authorized by this law and established by the Town Board of the Town of Wirt, a surcharge to recover and defray the cost of an enumeration of dogs living with the Town of Wirt.
- b. For five (5) to (10) dogs the licenses fee shall be \$500.00 annually whether spayed or neutered or unaltered.
- c. For eleven (11) or more dogs the fee shall be \$1,500.00 annually whether spayed or neutered or unaltered.

### Section 12. Exemptions

A. Excepted from payment of the license fee are applications submitted for a dog license for any of the following dogs, provided written documentation is provided with such application that certifies such dog as being any of the following:

- 1. guide dog;
- 2. service dog;
- 3. therapy dog.

B. A dog participating in a dog show within the Town of Wirt shall be exempt, during such participation only, from the requirement, contained in §50.102 and, if applicable, §50.105, of this Law and in Section 111, as amended, of the New York State Agriculture and Markets Law, of wearing its identification tag.

### Section 13. Restrictions

It shall be unlawful 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 not exceeding 6 feet in length 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.
- g. If a female dog in heat is off the owner's premises.
- 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 14. Enforcement

This Local Law shall be enforced by any Dog Control Officer or peace officer when acting pursuant to his/her special duties.

#### Section 15. Seizure, Impoundment, Redemption and Adoption

a. Any dog found to be at large in violation of this local law may be seized by any Dog Control Officer, Assistant Dog Control Officer, peace officer, police officer or other designated representative of the Commissioner of Agriculture and Markets Law of the State of New York, exercising such degree of force as shall be necessary to effect such seizure without intentionally injuring or harming such dog, shall be impounded and disposed of in accordance with the provisions of the Agriculture and Markets Law.

b. If the dog seized bears a license tag, the Dog Control Officer shall ascertain the owner of the dog and shall immediately notify such owner personally, or an adult member of his family. If owner is unable to be contacted personally, written notice will be sent by certified mail, stating that said dog had been seized and that the dog will be destroyed unless redeemed within the period hereinafter provided.

c. If notification is given to owner personally, the dog will be held for five (5) days. If notice is given by certified mail, the dog will be held for a period of twelve (12) days from the date of mailing.

d. The owner of a dog seized may redeem the dog, within the time period stated above, by paying the Town Clerk of the Town of Wirt the redemption fee as provided below:

1. A pick-up fee of up to \$50 for the first impoundment and of \$100 each subsequent impoundment within one year for said dog; and

2. \$75 for the first 24 hours of the impoundment and \$25.00 for each additional 24-hour period, or part thereof; and
3. \$85.00 for the first 24 hours of the second impoundment within one year and \$25.00 for each additional 24-hour period, or part thereof; and
4. \$95.00 for the first 24 hours of the third and all subsequent impoundments within one year, plus \$25.00 for each additional 24-hour period, or part thereof.

e. If the owner fails to claim the dog by the expiration of the redemption period, the dog shall then be made available for adoption or disposed of. If the dog is not redeemed within the above periods of time and the dog is adopted or disposed of, the owner shall still be liable and must pay the redemption fees, including the day of disposition.

f. The Dog Control Officer is hereby authorized to dispose of any dog seized. 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 118 of the Agriculture and Markets Law.

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 to 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 16. 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 of the Town observing a violation of this local law in his/her presence shall issue and serve an appearance ticket for such violation.

#### Section 17. Complaint

a. Any person who observes a dog in violation of this Local Law may file a written complaint under oath with a Dog Control Officer specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog. All complaints shall be investigated and it shall be the duty of the Dog Control Officer to proceed with civil or criminal enforcement of this local law or any other provision of law pertaining thereof.

b. The Dog Control Officer may elect either to prosecute the violation under the Penal Law or to commence an action to recover a civil penalty.

c. A violation of this Local Law prosecuted under the Penal Law shall be punishable by a fine of not more than fifty dollars (\$50.00) for a first violation; a fine of not more than two

hundred fifty dollars (\$250.00) for a second or further violation within the prior 5 years; or a term of imprisonment for not more than 15 days; or both such fine and imprisonment.

d. Upon receipt by the Dog Control Officer of any such complaint, he/she shall summon the alleged owner to appear in person before the Town Justice, 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 and for the dog to be restrained by collar, leash and muzzle 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.

e. A violation of any order issued by a Town Justice under the provisions of this Section 8 shall be an offense punishable, upon conviction thereof, as provided in Section 17 of this Local Law.

#### Section 18. Penalties

A conviction of a violation of this Local Law shall be deemed an offense and punishable by a fine not less than twenty-five (\$25) dollars for the first offense, and not less than fifty (\$50) dollars for each offense thereafter or a term of imprisonment for not more than 15 days, or both. In no case shall any fine for a violation exceed \$500.00.

#### Section 19. 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 20. Repealer

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town and they shall be, upon the effectiveness of this Local Law, null and void.

#### Section 21. Effective Date

This Local Law shall take effect January 1, 2019 upon its filing with the Secretary of State as required by law.