

LOCAL LAW

No. 1-2005

OF THE TOWN OF EAST OTTO COUNTY OF CATTARAUGUS STATE OF NEW YORK

A LOCAL LAW RELATING TO THE CONTROL OF DOGS RUNNING AT LARGE IN THE TOWN OF EAST OTTO

BE IT ENACTED by the Town Board of the Town of East Otto, Cattaraugus County, New York as follows:

SECTION 1. PURPOSE

The Town Board of the Town of East Otto finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to person, damage to property and have 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 running at large of dogs within the Town.

SECTION 2. AUTHORITY

This local law is enacted pursuant to the provisions of Article Seven of the Agriculture and Markets Law and the Municipal Home Rule of the State of New York.

SECTION 3. TITLE

The title of this local law shall be "A Local Law Relating to the Control of Dogs Running at Large in the Town of East Otto.

SECTION 4. DEFINITION OF TERMS

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

- A) Dog means male and female, licensed and unlicensed, members of the species *Canis Familiaris*.
- B) Owner means the person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost, and such loss was promptly reported to the dog warden and a reasonable search has been made. If a dog is not licensed, the term 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 dog 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 this local law. In the event the owner of any dog found to be in violation of this chapter shall be under eighteen years of age, 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.

- C) Run at large means to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.
- D) Town means the Town of East Otto.
- E) Dog Warden means a dog control officer on or after January 1, 2005, whether such dog control officer is appointed by the Town of East Otto or is appointed by any other municipality under contract to enforce the terms of this local law for the Town of East Otto.
- F) The fact that a dog is at large within the Town shall be presumptive evidence that the animal has been permitted to be at large, with the knowledge of the owner or person having custody of the dog.

SECTION 5. 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 it is accompanied by its owner or a responsible person under the full control of such owner or person. For the purpose of this local law, a dog or dogs hunting in company with a hunter or hunts shall be considered as accompanied by its owner.
- B) Engage in habitual loud howling, barking, crying or shining or conduct itself in such a Manner so as to unreasonably and habitually disturb the comfort and repose of any person other than the owner of such dog.
- C) Uproot, dig, or otherwise damage any vegetables, lawns, flower, garden beds or other property without the consent or approval of the owner thereof.
- D) While running at large, to chase, jump upon 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, motorcycles or bicycles while on a public street, highway or place, or upon private property without consent or approval of the owner of such property.
- F) Create a nuisance by defecating, urinating or digging on public property, or on private property without the consent or approval of the owner of such property.

SECTION 6. SEIZURE OF DOGS

The procedure for seizure and impoundment of dogs in violation of Article 7 of the Agriculture and Markets Law and of this local law are as follows:

- A) Any person who observes a dog in violation of this local law may file a written complaint under oath with the dog warden of the Town of East Otto or a peace 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 such dog. Such complaint may serve as the basis for enforcing the provisions of this local law.

- B) Upon receipt of any such written complaint, the dog warden or a peace officer having reasonable cause to believe that a person has violated this local law shall issue and serve upon such person an appearance ticket for such violation.
- C) Upon receipt of any such written complaint, the dog warden or peace officer shall seize the dog regarding which such complaint is made if such dog is found by the dog warden or peace officer to be in violation of Section 5 of this local law. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law.

SECTION 7. PENALTIES

Any person convicted of a violation of this local law shall be deemed to have committed a violation and for the first such violation shall be subject to a fine not exceeding \$150.00 and for a second or subsequent violation a fine not exceeding \$300.00.

SECTION 8, LOCAL FEE

A Local fee to be determined by the Town Board of the Town of East Otto will be imposed on each dog licensed in the Town. This fee will be designated to offset expenses of the control of dogs in the Town of East Otto.

SECTION 9. SEPARABILITY

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 10, REPEALER

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

SECTION 11, EFFECTIVE DATE

This local law shall take effect March 10,2005..