

# TOWN OF ROMULUS

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Robert Gerlach, Councilman  
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## 76-10 RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 1 OF THE YEAR 2010

“A local law providing for Licensing, Identification and Control of Dogs”

**WHEREAS**, it has been recommended that it is in the best interests of the Town that there be introduced a Local Law as follows:

1. Purpose.
  - a. The purpose of this local is to 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.
2. Application.
  - a. This local law shall apply to all areas of the Town of Romulus, New York.
  - 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, upon the premises of any not-for-profit pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association or confined for the purposes of research to the premises of any college or other educational or research institution.
  - c. As mandated by New York State law, 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.
  - d. Any dog harbored within the Town which is 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.
3. Definitions.

- a. "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered, or any cat.
- b. "Town" means the Town of Romulus, New York.
- c. "Clerk" means the clerk of any town, city, county or village where licenses are validated or issued pursuant to this article.
- d. "Commissioner" means the state commissioner of agriculture and markets.
- e. "Dog" means any member of the species *canis familiaris*.
- f. "Dog control officer" means any individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog-protective association under contract with a municipality to assist in the enforcement of this article.
- g. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.
- h. "Euthanize" means to bring about death by a humane method, in a manner consistent with the laws of the United States of America and/or the State of New York.
- i. "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 owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.
- j. "Harbor" means to provide food or shelter to any dog.
- k. "Identification tag" means a tag issued by the Town 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 Town and such other information as the Town deems appropriate.
- l. "Identified dog" means any dog carrying an identification tag as provided in section one hundred eleven of the Agriculture and Markets Law of the State of New York.
- m. "Municipality" means any county, town, city and village.
- n. "Owner" means any person who harbors or keeps any dog.
- o. "Owner of record" means the person in whose name any dog was last licensed pursuant to either this local law or subdivision one or subdivision two of section one hundred nine of the Agriculture and Markets Law of the State of New York, 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 provisions of section one hundred twelve of the Agriculture and Markets Law of the State of New York, 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.

- p. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.
- q. "Police work dog" means any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.
- r. "Recognized registry association" means any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the commissioner.
- s. "War dog" means any dog which has been honorably discharged from the United States armed services.
- t. "Hearing dog" means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.
- u. "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, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.
- v. "Person with a disability" means any person with a disability as that term is defined in subdivision twenty-one of section two hundred ninety-two of the executive law.
- w. "Dangerous dog" means any dog which (i) without justification attacks a person, companion animal as defined in subdivision five of section three hundred fifty of the Agriculture and Markets Law of the State of New York, farm animal as defined in subdivision four of section three hundred fifty of the Agriculture and Markets Law of the State of New York or domestic animal as defined herein and causes physical injury or death, or (ii) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death. "Dangerous dog" does not include a police work dog, as defined herein, which acts in the manner described in this paragraph while such police work dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- x. "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the department;

provided, however, that such services provided by said dog shall be performed without charge or fee.

- y. "Therapy dog" means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.
- z. "Detection dog" means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.
- aa. "Physical injury" means impairment of physical condition or substantial pain.
- bb. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious or protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

#### 4. Licensing of Dogs, Rabies Vaccination Requirement

- a. All dogs within the Town four (4) months of age or older, unless otherwise exempted shall be licensed. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town. Each license application shall be accompanied by 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. Each license issued shall be valid for a period of one year and shall not be transferrable.
- b. The Town from time to time, acting pursuant to the authority created under this local law authorize by duly enacted resolution (a) a county dog control officer in charge of a county-operated animal shelter or pound; or (b) the manager of a shelter with the Town contracts for shelter services acting by its manager to provide, accept and grant an application for a dog license made by a resident of the Town at the time of the adoption of a dog from such shelter provided that such application is made in accordance with the provisions of this local law and the license fee, any additional fee and surcharge shall be remitted to Town Clerk of the Town on or before the third day of the month following the month in which the license fee and additional fee and surcharge was received."

#### 5. License Fees

- a. The Town hereby establishes the fee for a dog license issued pursuant to this local law at \$2.50, to which amount shall be added at least \$5.00 if the dog for which the license application is made is unspayed or unneutered.

- b. Excepted from payment of the license fee are applications submitted for a dog license for any guide, hearing, service, war, working search, detection, police and therapy dogs.
- c. In addition to the license fee established herein, each applicant for a dog license shall pay a surcharge of \$1.00 if the dog to be licensed is altered, or a surcharge of \$3.00 if the dog sought to be licensed is unaltered. This surcharge, as required by law, will be remitted to the Department of Agriculture and Markets for transmittal to the State Comptroller for deposit in the population control fund.
- d. In addition to the license fee imposed herein, each applicant for a dog license shall pay a surcharge of \$1.00, which shall be retained by the Town and used to defray the cost of any enumeration of dogs living within the Town and the cost of providing replacement identification tags.
- e. The license fee established herein, and any additional fees or surcharges imposed pursuant to this local law may be amended from time to time, in a manner consistent with the laws of the State of New York, by a resolution duly enacted by the Town Board of the Town.

#### 6. Identification of Dogs

- a. Each dog licensed pursuant to subdivision one of section one hundred nine of this article shall be assigned, at the time the dog is first licensed, a municipal 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, provided that the Town may exempt dogs participating in a dog show during such participation.
- b. 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.

#### 7. Change of Ownership; Lost or Stolen Dog

- a. In the event of a change in the ownership of any dog that has been licensed pursuant to this local law or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the Town Clerk a written report of such change. Such owner of record shall be liable for any violation of this local law until such filing is made or until the dog is licensed in the name of the new owner.
- b. If any dog that has been licensed pursuant to this local law is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft file with the Town Clerk a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this local law committed after such report is filed.
- c. In the case of a dog's death, the owner of record shall so notify the municipality in which the dog is licensed either prior to renewal of licensure or upon the time of such renewal as set forth by the Town.

#### 8. Dog Control Officers

- a. The town shall continue to appoint, one or more dog control officers for the purpose of assisting, within the appointing municipality, with the control of dogs and the enforcement of this local law.
- b. In lieu of or in addition to the appointment of a dog control officer or officers, the town may, by resolution pursuant to this local law, contract for dog control officer services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall appoint, jointly with one or more other municipalities, one or more dog control officers having jurisdiction in each of the cooperating municipalities.
- c. Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this local law. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this local law may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any proceeding, whether criminal or civil in nature undertaken in accord with the provisions of this local law or any resolution, local law or ordinance promulgated pursuant thereto.
- d. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.
- e. Every dog control officer shall file and maintain such records for not less than three years following the creation of such record, and shall make such reports available to the commissioner upon request.
- f. The Town may by resolution, either individually or in cooperation with other municipal entities, require its dog control officer or animal control officer or any other authorized agent to ascertain and list the names of all persons in the municipality owning or harboring dogs, or in lieu thereof, such municipality may contract to have the same done.

## 9. Pounds and Shelters

- a. The town shall continue to establish and maintain a pound or shelter for dogs, by contract or otherwise.
- b. In lieu of or in addition to establishing and maintaining such pound or shelter, the Town may contract for pound or shelter services with any other municipality or with any incorporated humane society or similar incorporated dog-protective association, or may establish and maintain, jointly or with one or more other municipalities, a pound or shelter.

## 10. Funds Expended by Municipality for Services

- a. Nothing herein shall require the Town to expend in any calendar year for dog control officer and pound or shelter services undertaken pursuant to this local law, an amount of money greater than it receives during such year pursuant to this local law and any local law, ordinance or resolution enacted pursuant thereto.

#### 11. Seizure of Dogs; Redemption Periods; Impoundment Fees; Adoption

- a. The owner of any dog impounded by the Town 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, provided that the owner produces proof the dog is licensed and identified and pays a fee of \$10.00 for the first impoundment; a fee of \$20.00 for the second impoundment and a fee of \$3.00 for each additional twenty-four hour period; a fee of \$30.00 for a third and each subsequent impoundment and a fee of \$3.00 for each additional twenty four hour period.
- b. The impoundment fees set forth herein may be amended by resolution, local law or ordinance from time to time, in a manner and in amounts not inconsistent with state law.
- c. Veterinary care for seized dogs.
  - i. Any dog seized or impounded by the Dog Control Officer of the Town pursuant to Agriculture and Markets Law § 118 and this local law that may require veterinarian treatment for injuries or sickness shall receive such veterinary care when such care is necessary in the judgement of the Dog Control Officer.
  - ii. The owner of such dog shall pay for said veterinary fees in addition to the impoundment fees upon redemption of the dog or, if the dog is deceased, not later than 30 days after said veterinary care is rendered and the owner notified, in writing, of such amount.
  - iii. If such amount is not paid within 30 days after notification, the Town shall proceed to collect the amount in a civil action.

#### 12. Protection of Deer

- a. Whenever the Town Board shall determine that the deer population in the Town or part thereof is suffering severe depredation due to dogs attacking, chasing or worrying deer, such governing body may by order require that all dogs in the Town or part thereof shall be securely confined during the period of time designated in the order or, if no time is designated, until the order is revoked.
- b. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in the Town that shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order. Such order shall be in full force and effect at the expiration of twenty-four hours following publication of such notice.
- c. If any dog is not confined as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize such dog.

Any dog so seized shall be subject to the provisions of this local law related to the Seizure of Dogs; Redemption Periods; Impoundment Fees and/or Adoption. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

- d. If any dog, which is not confined as required by such order, shall attack, chase or worry any deer, any dog control officer, peace officer, acting pursuant to his special duties, or police officer upon witnessing the same, shall destroy, or seize and destroy, such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.
- e. This section and any order issued pursuant thereto shall not apply to dogs in special dog training areas or shooting preserves enclosed and licensed pursuant to the provisions of the environmental conservation law, while such dogs are under the control of the owner or trainer.

### 13. Night Quarantine

- a. The governing body of the Town may at any time by order require that all dogs in such municipality shall be securely confined between sunset and one hour after sunrise during the period of time designated in the order, or, if no time is so designated, until the order is revoked.
- b. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality that shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order.
- c. Any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize any dog not confined as required by such order, and no liability in damages or otherwise shall be incurred on account of such seizure. Any dog so seized shall be subject to the provisions related to the Seizure of Dogs; Redemption Periods; Impoundment Fees and/or Adoption.
- d. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

### 14. Dogs running at large prohibited.

- a. No person owning or harboring a dog, whether licensed or not, shall permit the same to be at large within the Town outside the municipal boundaries of any village unless such dog is effectively restrained by a chain or leash not exceeding sixteen feet in length and is in charge of a competent person.
- b. "At large" means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is:
  - i. A guide dog actually leading a blind person
  - ii. A hearing dog actually aiding a deaf person.

- iii. A police work dog in use for police work.
- iv. Accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on posted and/or unposted land with the permission of the landowner of the land.
- v. Within the confines of a fenced in and duly established public dog park.

## 15. Violations

- a. It shall be a violation, punishable as provided in subdivision “d” of this section, for:
  - i. any owner to fail to license any dog;
  - ii. any owner to fail to have any dog identified as required by this article;
  - iii. any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs or purebred license tag;
  - iv. any owner to fail to notify the Town of a change of dog ownership and a change of address.
  - v. any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article, including, but not limited to, the protection of deer, night quarantine, the prevention of dogs running at large pursuant to a validly enacted local law and/or the regulation and control of dangerous dogs;
  - vi. any person to furnish any false or misleading information on any form required to be filed with the town pursuant to the provisions of this local law;
  - vii. for any owner of or any person harboring a dog in the Town to permit or allow such dog to:
    - 1. Engage in habitual loud howling or barking or to conduct itself in such a manner as to habitually annoy any person other than the owner or person harboring such dog.
    - 2. Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
    - 3. Chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
    - 4. Habitually chase or bark at motor vehicles or bicycles.
    - 5. Run at large while in heat if such dog is a female dog.

- b. Any control officer or peace officer in the employ of or under contract to the Town may seize any dog found to be in violation of any provision of this local law.
- c. It shall be the duty of the dog control officer of the Town to bring an action against any person who has committed within such municipality any violation set forth in subdivision “a” of this section. Any municipality may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.
- d. A violation of this local law shall be punishable, subject to such an election, either:
  - i. where prosecuted pursuant to the penal law, by a fine of not more than \$250.00, except that (i) where the person was found to have violated this section or former article seven of this the New York State Agriculture and Markets Law within the preceding five years, the fine may be not more than \$500.00, 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 more than one thousand dollars or imprisonment for not more than fifteen days, or both; or
  - ii. where prosecuted as an action to recover a civil penalty, by a civil penalty of not more than \$250.00, except that (i) when the person was found to have violated this section or former article seven of the New York State Agriculture and Markets law within the preceding five years, the civil penalty may be not more than \$500.00, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not more than \$1000.00.
- e. A violation of this local law may be prosecuted upon the issuance pursuant to the criminal procedure law of an appearance ticket, or in lieu thereof, a uniform appearance ticket, or in lieu thereof, a uniform appearance ticket and simplified information, as provided in section one hundred fourteen of the New York State Agriculture and Markets Law, by any dog control officer, peace officer, acting pursuant to his special duties, or police officer, who is authorized by any municipality to assist in the enforcement of this article for any such violation.
- f. A defendant charged with a violation of any provision of this local law or any resolution duly enacted amending same may himself plead guilty to the charge in open court. He may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he waives arraignment in open court and the aid of counsel, (b) that he pleads guilty to the offense charged, (c) that he elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he desires to make concerning the offense charged, and (e) that he makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

- g. Presumption of evidence. The fact that a dog is at large in the Town elsewhere than on the premises of the owner or person harboring such dog shall be presumptive evidence that the dog has been permitted to be at large with the knowledge of the owner or person harboring such dog.
- h. Each dog maintained or harbored pursuant to, or in violation of this local law shall constitute a separate violation of this local law.

#### 16. Disposition of Fines.

All money and penalties the Town may collect for violations of Article 7 of the New York State Agriculture and Markets Law and all of the money and penalties the Town may collect for violation of this local law shall remain the property of the Town. The money can only be used for dog control purposes, funding low-cost spay/neuter programs and/or subsidizing humane education programs.

#### 17. Severability Clause

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The Town of Romulus hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

#### 18. Precedence and Compatibility with Local laws

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations and shall be read in such a manner as to effectuate consistency with any and all such laws rules and/or regulations

#### 19. Effective Date

This Local Law shall be effective on January 1, 2011, upon passage and filing with the New York Secretary of State. Further, such a measure may be rendered effective against particular persons at an earlier date through personal service upon such persons certified by the clerk and notation of the date of passage and entry into the minutes.

**AND NOW, THEREFORE, BE IT RESOLVED** that proposed Local Law No. 1 of the year 2010 entitled “A local law providing for Licensing, Identification and Control of Dogs” be and the same is hereby introduced before the Town Board of The Town of Romulus, New York; and

**BE IT FURTHER RESOLVED** that copies of the aforesaid proposed local law be laid upon the desks of each member of the Town Board; and

**BE IT FURTHER RESOLVED** that the Town Board hold a public hearing on said proposed Local Law at the Town Office Building, 1435 Prospect Street, Willard, New York 14588 at 7:30 p.m. on the 17 day of November, 2010; and

**BE IT FURTHER RESOLVED** that the Town Clerk Post copies on the official bulletin board(s) of the Town and publish or cause to be published a notice of said public hearing in the official newspaper of the Town at least ten (10) days prior thereto.

This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

Motioned by:

Seconded by:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Councilman Gerlach	[ ]	[ ]	[ ]	[ ]
Councilman Walborn	[ ]	[ ]	[ ]	[ ]
Councilwoman McCall	[ ]	[ ]	[ ]	[ ]
Councilman Collinsworth	[ ]	[ ]	[ ]	[ ]
Supervisor Kaiser	[ ]	[ ]	[ ]	[ ]

Carried

The Resolutions were thereupon duly adopted.

October 20, 2010

Terry Smith, Town Clerk  
Town of Romulus