

**Town of Cuba**  
**Introductory Local Law Number 1 of 2010**

A Local Law to Provide for the Licensing, Identification and Control of Dogs in the Town of Cuba, to Restrain the Running at Large of Dogs within said Town, to Provide for the Seizure and Impounding of Certain Dogs, to provide Punishments for the Violation of this Local Law, and Related Provisions.

Be it enacted by the Town Board of the Town of Cuba, in the County of Allegany, as follows:

**Section 1. PURPOSE.**

The purpose of this local law 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 within the Town of Cuba, including within the boundaries of the Village of Cuba.

**Section 2. AUTHORITY.**

This local law is authorized by Article 7 of the Agriculture and Markets Law of the State of New York, hereinafter referred to as "Article 7", and the Municipal Home Rule Law of the State of New York, and this local law shall be deemed automatically amended to conform to Article 7 of said Agriculture and Markets Law as such statute may be amended from time to time.

**Section 3. TITLE.**

The title to this local law shall be "A Local Law to Provide for the Licensing, Identification and Control of Dogs in the Town of Cuba, to Restrain the Running at Large of Dogs within said Town, to Provide for the Seizure and Impounding of Certain Dogs, to provide Punishments for the Violation of this Local Law, and Related Provisions."

**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, either within a building, or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street or 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 Town Board, to enforce the provisions of the local law or the provisions of the Agriculture and Markets Law. A person may also be authorized by the Town Board as Assistant Dog Control Officer.
- (e) "Owner." The party purchasing the license, unless 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 of, control of, harbors, or is otherwise responsible for an 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 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 any dog found to be in violation of this local law shall be owned by a minor, under the age of eighteen (18) years, 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) "Harbor." Shall mean to provide food and shelter to any dog.
- (g) "Recreational Areas." Recreational areas shall mean any real property owned by the Town of Cuba, which is used primarily for recreational purposes by the public, including, but not limited to parks and playgrounds.
- (h) "Be at Large." Be at large shall mean to be in a public place or on private land without the knowledge, consent and approval of the owner or occupant of such lands.
- (i) "Town." Shall designate the area within the legal boundaries or limits of the Town of Cuba, including within the boundaries of the Village of Cuba, where dogs are harbored or kept.
- (j) "Clerk." Shall mean the Clerk of the Town of Cuba, who validates or issues dog licenses.
- (k) "Regular License." Shall mean the license authorized and issued pursuant to this local law for the licensing and identification of dogs.
- (l) "Purebred License." Purebred License has been discontinued in the Town of Cuba. A Regular License is required for each individual dog.
- (m) "Fees." Shall mean dog license fees pursuant to this local law.

#### **Section 5. LICENSING OF DOGS, RABIES VACCINATION REQUIREMENT.**

All dogs within the Town of Cuba four (4) months of age or older, unless otherwise exempted shall be licensed. The owner of each dog required to be licensed shall appear at the Clerk's office with 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 expire at the end of the month one year from the date of issue and shall not be transferrable.

**Section 6. EXEMPTION.**

Any dog harbored within the Town of Cuba which is owned by a resident of New York City or licensed by the City of New York, or other municipality of the State 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.

**Section 7. IDENTIFICATION TAG.**

Any dog identification tag issued is required to have on it the name of the licensing municipality, a reference to the State of New York and municipality contact information, including a telephone number.

**Section 8. PUREBRED LICENSE.**

The Town of Cuba has discontinued Purebred Licenses and a Regular License is required for each individual dog.

**Section 9. LICENSE FEES.**

- A. The Town of Cuba hereby establishes the license fees for dog licenses issued pursuant to this local law at \$9.00, to which amount shall be added an additional \$6.00 charge if the dog for which the license is issued 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 by Sub-Division A of this section of this local law, each applicant for a dog license shall pay a surcharge of \$1.00 if the dog is to be licensed is altered or a fee of \$3.00 if the dog sought to be licensed is unaltered.
- D. There shall be a late fee assessed to every license not obtained or renewed within the time period required. The late fee shall be \$5.00 for up to the first three (3) months, and \$1.00 per month after the first three (3) months.
- E. In addition to the license fee established by Sub-Division A of this section of this local law, each owner found during an enumeration without a current license for a dog shall pay a surcharge of \$5.00 which shall be retained by the Town of Cuba and used to defray the cost of an enumeration of dogs living within the Town of Cuba and the cost of providing replacement identification tags. An enumeration shall be performed by the Town of Cuba every odd numbered year.

**Section 10. RESTRICTIONS.**

It shall be a violation punishable as provided in Agriculture and Markets Law Section 118 for the owner of any dog in said Town of Cuba to permit or allow such dog to:

- (a) 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.
- (b) No person who owns a dog shall permit the premises, structures or enclosures in which such dog is kept to be unclean or unsanitary.
- (c) Be at large in the area described at and defined in Section 15 of this Local Law.
- (d) Engage in loud howling, barking, crying, or whining, or conduct itself in such manner as to unreasonably disturb the comfort or repose of any person other than the owner of such dog.
- (e) It shall be unlawful for the owner or person harboring any female dog to permit such dog to run at large when in heat, and such dog shall be confined to the premises of such owner or person harboring such dog during such period.
- (f) Uproot, dig, or otherwise damage any vegetation, lawns, flowers, garden beds, or other property without the consent or approval of the owner.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 5 or Section 10 of this local law shall be presumptive evidence against the owner or harborer of such dog that he or she has failed to properly leash or control his or her dog, and has permitted or allowed such act to occur.

**Section 11. ENFORCEMENT.**

This local law shall be enforced by the Dog Control Officer, Assistant Dog Control Officer, by any peace officer, police officer, or by any person having jurisdiction under the Agriculture and Markets Law.

**Section 12. SEIZURE OF DOGS.**

Any dog found to be at large in violation of Section 5 or Section 10 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.

**Section 13. REDEMPTION OF SEIZED DOGS AND REDEMPTION FEES.**

- (a) Every dog seized after being found to be at large shall be properly fed and cared for at the expense of the Town of Cuba until disposition thereof be made as herein provided. The redemption of a seized dog shall be in conformance with and pursuant to the provisions of the Agriculture and Markets Law of the State of New York both as to licensed and unlicensed dogs.
- (b) In the event that 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 the owner's 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 transported to the Town of Cuba's designated shelter and may be 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 in Section 13(c), by paying to the Town Clerk the redemption fee which is determined pursuant to the annual contract with the Town of Cuba's designated shelter.
- (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 after the date of redemption has expired
- (g) No action shall be maintained against the Town of Cuba, or its duly designated Dog Control Officer, or any other 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.

**Section 14. COMPLAINTS, VIOLATIONS, AND ENFORCEMENT.**

- (a) Any person who observes a dog in violation of this local law may file a written complaint with the 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 one hundred dollars (\$100.00) for a first violation; a fine of not more than five hundred dollars (\$500.00) for a second or further violation within the prior five years; or a term of imprisonment for not more than 15 days; or both such fine and imprisonment.
- (d) A violation of this local law prosecuted as a civil action shall subject the defendant to a civil penalty of not more than one hundred dollars (\$100.00) for a first violation, and a penalty of not more than five hundred dollars (\$500.00) for a second or further violation within the prior five years.

#### **Section 15. AT LARGE RESTRICTED AREAS.**

No dog shall be permitted to run at large in the following area in the Town of Cuba, unless the dog is restrained by an adequate leash (not exceeding eight {8} feet in length) or unless accompanied by its owner or a responsible person able to control it by command. For the purpose of this local law a dog or dogs hunting in the company of a duly licensed hunter shall be considered as accompanied by its owner, to wit:

- A. Area Adjacent to the South Shore of Cuba Lake, being more specifically described as follows: Commencing at a point on the top of the earthen dam located on the easterly end of Cuba Lake and running from that point southerly to the centerline of County Road 25; continuing thence southerly and perpendicular to the centerline of County Road 25 a distance of 300 feet to a point; proceeding thence in a generally westerly direction and parallel to the centerline of County Road 25 and 300 feet southerly from said centerline, a distance of approximately 1.5 miles to a point where said line intersects the northerly boundary line of the Oil Springs Indian Reservation; proceeding thence northerly and perpendicular to the northerly bounds of said Oil Springs Indian Reservation and passing through the centerline of County Road 25, and continuing northerly a distance of 300 feet to a point in the waters of Cuba Lake; and proceeding thence in a generally easterly direction and parallel to the centerline of County Road 25 and 300 feet northerly from said centerline, to a point on the top of the earthen dam creating Cuba Lake, being the point and place of beginning.
- B. Area Adjacent to The West Shore and North Shore of Cuba Lake, being more specifically described as follows: Commencing at a point where the centerline of County Road 7D intersects the boundary line between the County of Allegany and County of Cattaraugus; proceeding thence

northerly along said boundary line between said counties to a point which is 300 feet westerly of the centerline of County Road 7D measured perpendicularly from said centerline; proceeding thence in a generally northerly direction and parallel to the centerline of County Road 7D and 300 feet westerly therefrom to the point where said line intersects the centerline of County Road 7; proceeding thence in a generally easterly direction and parallel with the centerline of County Road 7 and northerly 300 feet from said centerline to a point which is 300 feet northerly of an extension of the top of the earthen dam creating Cuba Lake; proceeding thence southerly and crossing the centerline of County Road 7 and continuing to a point that is 300 feet southerly of said centerline; and proceeding thence in a generally westerly and southerly direction, through the waters of Cuba Lake on a line parallel to the centerline of County Road 7 and County Road 7D and 300 feet southerly and easterly from said centerline to the point where said line intersects the boundary line between the County of Allegany and County of Cattaraugus.

- C. Village of Cuba. Being all areas located within the legal boundaries of the Village of Cuba.

**Section 16. 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 17. REVOCATION OF PRIOR LOCAL LAWS AND ORDINANCES.**

All local laws and ordinances of the Town of Cuba which have been previously adopted which deal with the same subjects, topics or prohibited conduct by the owners of dogs are hereby repealed effective as provided in Section 17 below.

**Section 18. EFFECTIVE DATE.**

This local law shall take effect on January 1, 2011 upon its filing in the Office of the Secretary of State as required by law.