

**Town of Genesee  
Little Genesee, NY 14754  
Public Hearing on Local Law #3 of 2018  
August 30, 2018**

**ATTENDANCE:** Supervisor Alex Smith, Councilman Joshua Bluhm, Howard Cornwall and Alyn Holcomb. Town Clerk Bonita Brunner  
Absent: Councilman Michael Cannon

**Town Residents:** Peggy Cowell, Rob Chamberlain, Kristin Wiser, Ricky Hunt, Yvonne Hunt, Marge Rix, Cliff Nix, Debra Kolkowski, Lori Dzielski, Richard Brunner, Kayla & Colt Bluhm

This public hearing was brought to order by Supervisor Smith at 6:30 PM.

**FLOOR PERMISSION:**

Supervisor Smith opened the floor discussion regarding Local Law #3 of 2018. This Law will regulate the control of domesticated animals within the Town of Genesee. Discussion about the chronic problems some residents have had in the Town regarding owners who do not take care of their animals and who let them roam freely. This law is meant to address these chronic issues.

Supervisor Smith read the Law as follows:

**Local Law #3 of 2018**

**Regulating the Control of Cattle, Sheep, Horses and Any Other Domesticated Animals Within the Town of Genesee.**

Section 1. **Statement of intent.** The Town Board of the Town of Genesee recognizes that failure to confine cattle, sheep, horses, poultry, swine and any other domesticated animals, and allowing said domestic animals to roam free and to trespass on public and private highways unattended and on public and private lands without permission of the owner or possessor of such lands, are injurious to the health, safety and welfare of the residents and property owners of the Town of Genesee. This law shall not apply to domesticated cats and dogs kept as household pets.

Section 2. **Definitions.** As used in this local law, the following terms shall have the meanings hereinafter designated:

A. Cattle-- shall mean one or more calves, heifers, cows, bulls, steers, oxen or other bovines.

B. Domesticated animals—shall mean animals which have traditionally been rendered suitable for farming or other agricultural activities, and being goats, alpacas, llamas, and similar animals.

C. Horses-- shall mean one or more colts, ponies, stallions, geldings, mares, or other equines.

D. Owner-- shall mean the registered owner, if cattle, sheep or horses are entered on a public or private register of owners of such animals, and any person claiming or asserting any

interest in such animals, whether such claim or assertion is based on documentary or oral evidence.

E. Person-- shall mean corporations, partnerships, unincorporated associations, as well as individuals.

F. Possessor-- shall mean any person having cattle, sheep, horses or other domesticated animals (as defined in this local law) in his/her possession or under his/her control, whether as a bailee or other agent of the owner.

G. Poultry-- shall mean one or more domesticated bird, including but not limited to chickens, ducks, geese, water fowl or other birds kept for any purpose.

H. Sheep-- shall mean one or more lambs, ewes, or rams.

I. Swine-- shall mean one or more pigs, boars or other porcines.

J. Throughout this local law, the use of the singular shall include the plural and vice versa, and the use of the masculine shall include the feminine and vice versa.

**Section 3. Confinement of cattle, sheep, horses, poultry, swine and domesticated animals.** It shall be a violation of this local law for any owner and/or possessor of cattle, sheep, horses, poultry, swine and/or domesticated animals to fail to keep such animals securely and safely confined to his own lands by adequate fencing or other lawful restraints, or to allow such animals to roam unattended on public or private lands or highways in the Town of Genesee.

**Section 4. Presumption.** If cattle, sheep, horses, poultry, swine and/or domesticated animals are found unattended on public or private highways, or are discovered on public or private lands, other than lands owned or leased by the owner and/or possessor of such animals, it shall be presumed that the owner and/or possessor of such animals failed to confine or restrain such animals in a proper manner as specified herein, and the burden of proving proper confinement or restraint shall be on the owner and/or possessor of such animals.

**Section 5. Precondition for Prosecution.** Before any owner or possessor of cattle, sheep, horses, poultry, swine and/ or other domesticated animals may be convicted of a violation of this local law, the Town of Genesee or other person must show that there was at least one prior incident within the preceding six month period when such owner and/ or possessor of such cattle, sheep, horses, poultry, swine and/or other domesticated animals failed to have such animals properly confined, or when such animals were left unattended, or where such animals were permitted to enter upon public or private lands or highways of the Town of Genesee. The Town of Genesee must also show that such owner and/or possessor of such animals received either a verbal or written notice of such occurrence, and that the conduct being prosecuted is therefore the second or subsequent violation within a six month period of time. The required notice can be given by any official of the Town of Genesee, or by any private individual or person.

**Section 6. Penalties.**

(a). Each and every violation of the provisions of this local law, as to each and every animal, by any person shall be deemed to be an offense against such local law, punishable by a fine of not less than twenty-five dollars (\$25.00), and not exceeding one hundred dollars (\$100.00) or imprisonment not exceeding fifteen (15) days, or both. Each day of violation of the provisions of this local law shall be deemed a separate and distinct offense as to each and every animal found to have been in violation of the terms of this local law.

(b). The Town of Genesee may in addition to or as an alternative remedy for any violation of this local law initiate a civil action or proceeding to recover from the owner a penalty not to exceed One Hundred Dollars (\$100.00) for each and every violation of this local law.

(c.) In addition to the above provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such local law.

#### **Section 7. Seizure and Redemption of Animals.**

(a). Any peace officer, police officer, or authorized town official observing a violation of this local law shall enforce it by issuing a citation to the offending owner or possessor. In addition, the peace officer, police officer, or authorized town official shall be empowered to seize any cattle, sheep, horses, poultry, swine and/or other domesticated animals found in circumstances violating this local law. Such animals can be maintained by the appropriate officials of the Town of Genesee, or can be placed with a duly established and operating Society for the Prevention of Cruelty to Animals, or similar agency or organization.

(b.) The owner of any animal seized pursuant to the provisions of this local law shall redeem such seized animal within five (5) days if such animal is unlicensed, or within twelve (12) days if the animal is licensed. Redemption of any seized animal can be made upon payment of all fees incurred by the Town of Genesee, plus the sum of twenty-five dollars (\$25.00) for the cost of the seizure, plus payment of any fines which have been imposed by any court having jurisdiction over any cases filed for violation of this local law.

(c). If any animal seized pursuant to the provisions of this local law is not redeemed within the time specified in subsection (b) above, the owner shall be deemed to have forfeited all title and right to such animal and the animal shall be sold by the Town of Genesee or destroyed. If the animal is sold or destroyed, the costs related to such sale or destruction shall be a charge which the Town of Genesee can recover against the owner by an action in an appropriate court of law.

(d). The Town Supervisor or Town Clerk is hereby authorized to sell or dispose of any seized animal which has not been redeemed within the specified time limits set forth above. The Town Clerk shall keep a record of all sales and such record shall be a public record open to inspection during the regular office hours of the Town Clerk.

**Section 8. 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 9. Effective date.** This local law shall take effect upon its filing with the Secretary of State as required by the Municipal Home Rule Law.

Questions: When would the law be effective. Possibly 1-2 months as it does not take effect until it is received by the NYS Department of State.

What is the procedure for making a complaint. Residents were advised that it would be helpful if pictures could be taken (with date and time) to be used as verification of violation of the law. They should contact the Town Hall and then a formal letter could be sent to the animal owner regarding the complaint.

**Resolution # 2018-11 was then presented to the Town Board as follows:**

**RESOLUTION CREATING LOCAL LAW NO. 3 OF 2018**

WHEREAS, THE Town Board of the Town of Genesee wishes to create Local Law #3 of 2018 which will regulate the Control of Cattle, Sheep, Horses and any other Domesticated Animals within the Town of Genesee.

A Public Hearing having been held at the Town of Genesee on August 30, 2018 regarding this Local Law; it is now

THEREFORE, resolved that Local Law #3 of 2018 be adopted

Councilperson Joshua Bluhm made a motion, 2<sup>nd</sup> by Councilperson Holcomb, that the above resolution be approved.

Roll call vote was taken as follows:

- CP Cornwall        Aye
- CP Bluhm         Aye
- CP Holcomb       Aye
- Supervisor Smith Aye

Resolution so approved and Local Law #3 of 2018 created.

Motion to adjourn the Public Hearing made by CP Cornwall, 2<sup>nd</sup> by CP Holcomb. Meeting was adjourned at 7:10 p.m.

Respectfully submitted,

Bonita Brunner  
Town Clerk  
Dated: September 5, 2018