

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State)

9 Pages  
STATE OF NEW YORK  
DEPARTMENT OF STATE

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED

AUG 13 2002

MISCELLANEOUS  
& STATE RECORDS

~~County~~  
~~City~~ of Westville  
~~Town~~  
~~Village~~

Local Law No. #2 of the year 2002

A local law DOG CONTROL Law of Town Of Westville  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Westville X  
~~Town~~  
~~Village~~ as follows:

SEE ATTACHED

# DOG CONTROL LAW OF TOWN OF WESTVILLE

## SECTION 1     TITLE

The title of this law shall be "DOG CONTROL LAW OF THE TOWN OF WESTVILLE".

## SECTION 2     AUTHORITY

This local law is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York, together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated herein, except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply and enforcement of this local law is intended by application of the penal law.

## SECTION 3     PURPOSE

The purpose of this local law is to protect the health, safety, and well-being of persons, property, wildlife, and dogs by imposing restrictions on the keeping and running at large of dogs within the Town. This law is being enacted because the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property, and created a nuisance within the Town.

## SECTION 4     DEFINITION OF TERMS

For the purpose of this local law, the terms as hereinafter used are defined as follows:

AGRICULTURE AND MARKETS LAW – The Agriculture and Markets Law of the State of New York, in effect during the life of this local law. The Agriculture and Markets Law is abbreviated as A.M.L.

All terms defined in Section 108 of A.M.L. shall have the same meaning as used herein unless specifically modified.

DOG CONTROL OFFICER – Any person authorized by the Town Board, County or State Legislature from time to time, directed or permitted to enforce the provisions of this local law or the provisions of the A.M.L.

ANIMAL HOSPITAL - A facility operated by a veterinarian or certified animal care persons for the purpose of treating sick and injured animals.

CONFINED – A dog is securely confined or restrained when it is kept on the owner's premises, either 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 on any adjacent premises or on any public road, way or place, or if the animal is being transported by the owner, it is securely confined in a crate, on a tether or in other container, or is restrained within an enclosed vehicle in a safe manner consistent with the

dog's good health so that it cannot be expected to escape therefrom (see A.M.L. Section 353 and 356 – Cruelty to Animals).

DOG – Dog shall mean male and female, licensed or unlicensed, member of the Species Canis Familiaris.

DOG OWNER – A dog owner is the person, persons, firm, association or corporation who:

- Purchased the license for the dog and is the registered owner; or
- Professes ownership of the dog; or
- Has custody and control of the dog; or
- Harbors or is otherwise responsible for the dog; or
- Is the parent, guardian, or head of household of the minor under 18 years of age who owns or harbors the dog; or brings into or permits the dog to come into the Town.

For proof purposes, any person harboring, possessing or controlling a dog for a period of one week prior to the filing of any complaint charging a violation of this local law or A.M.L., shall be held and deemed to be the owner of such dog for the purpose of this local law. Parents, guardians or head of household, as mentioned above, shall be deemed to have custody and control of dogs owned or harbored by minors and shall be responsible for compliance with this local law and A.M.L. in the Town.

KENNEL – A kennel is a facility that constitutes a business for keeping dogs for hire, or the business for raising dogs for sale.

PUREBRED BREEDER – A purebred breeder is a person, firm, association, or corporation who raises dogs for show, competition or sale.

RECREATIONAL AREAS – Recreational areas shall mean any real property owned by the Town, County or State or located in the Town which is used for recreational purposes by the public, including, but not limited to, parks or playgrounds.

RUN AT LARGE – The term run at large shall mean to permit dogs freedom to run in a public place or on private land without the knowledge, consent and approval of the owner of such lands, or running on any public highway.

TOWN – The “Town” as used herein shall mean the Town of Westville.

## **SECTION 5 LICENSING**

All dogs within the Town shall be identified, licensed and vaccinated in accordance with the requirements of Article 7 of the A.M.L., particularly Section 109 thereof and in accordance with any Town Local Law, Ordinance, Rule or Regulation.

## **SECTION 6 LICENSING FEES AND THEIR DISPOSTION**

As authorized by Section 110 of the A.M.L., and as required for controlling dogs, the fees for licensing dogs will be in accordance with any Town Local Law, Ordinance, Rule or Regulation in effect during the life of this Local Law.

**SECTION 7      DOG CONTROL OFFICER**

The Town Board will by special resolution, maintain the appointment of a Town Dog Control Officer as required by Section 114, A.M.L., setting compensation therein. Such officer shall have authority as set forth on Subdivision 4 of 114 A.M.L., and shall be responsible for enforcing A.M.L., and this Local Law of the Town of Westville. The Town Dog Control Officer is hereby authorized pursuant to the Criminal Procedure Law, to serve the summons and to serve and execute any other order or process in the execution of the provisions of this Local Law as specified in Sections 114.4 and 124.2.C, A.M.L. The Dog Control Officer shall maintain all reports required by Article 7, A.M.L. specifically Subdivisions 5 and 6 of Section 114.

**SECTION 8      RESTRICTIONS**

It shall be unlawful for any dog owner in the Town to permit or allow his or her dog to:

- A. Run at large and not be confined, unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by command, or is on its owner's property.
- B. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably or habitually disturb the comfort or response of any person other than the owner of the dog.
- C. Uproot, dig into, upset, or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers, or other property not belonging to the owner of such dog.
- D. Destroy, kill, or damage any poultry, livestock, or domestic pets not belonging to the owner.
- E. Destroy, kill or damage any wildlife.
- F. 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 except when such a person may be on the owner's private property without said owner's consent.
- G. Habitually chase, run alongside or bark at motor vehicles, cyclists and/or pedestrians while on a public street or highway or upon public or private property other than property of the owner of said dog.
- H. Create a nuisance by defecating, urinating or digging on public or private property, other than the property of said owner.
- I. Allow a female dog to be off the owner's premises when it is in heat except when transporting such dog to a veterinarian's office or when involved in a formalized, controlled breeding program.
- J. Run at large on a recreational area or the sidewalks adjacent thereto.

Establishment of the fact or facts that a dog has committed any of the acts prohibited by this Local Law shall be presumptive evidence against the dog owner that he/she has failed to properly confine, leash or control his/her dog.

**SECTION 9 SEIZURE OF DOGS**

- A. Town Dog Control Officer and/or police officers may seize any dog found:
  - 1. Not to be identified and not on the owner's property; or not to be licensed whether on the owner's property or not (A.M.L. 118); or
  - 2. Any dog found running at large in violation of the above restrictions
- B. Officers may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog, and such dog shall be impounded or disposed of pursuant to Section 188, A.M.L. Officers are not authorized, hereby, to enter a building in order to seize a dog without permission from the owner or occupant of the building. When permission is not given and the probable cause exists to believe that a dog is in the building and is in violation of the A.M.L. or this Local Law, the Dog Control Officer shall obtain a warrant to enter the building to seize the dog by application of the Criminal Procedure Law Article 690. The Town Dog Control Officer will maintain records of seized, impounded, forfeited and adopted dogs as required by Section 118, A.M.L.
- C. The seizure of any dog shall not relieve any owner from any violation provided for by A.M.L. or this Local Law.
- D. No liability in damages or otherwise shall be incurred on account of the seizure or impoundment of any dog seized pursuant to this Local Law on the part of the Town, Dog Control Officer or police officers (see A.M.L. Section 118.11).

**SECTION 10 HOLDING PERIODS AND IMPOUNDMENT FEES**

Following seizure of a dog pursuant to this Local Law, it shall be impounded pursuant of Section 118 A.M.L., and the holding period and fee will be set forth in Section 18 of this Local Law. Impoundment fees shall be paid to the Town of Westville, at the Town Clerk's Office during normal working hours, Monday – Friday.

**SECTION 11 DOG FORFEITURE, ADOPTION**

All dogs seized pursuant to this Local Law will be subject to forfeiture or adoption as set forth in Section 118 A.M.L. and the county rules and regulations. The Town hereby encourages that all dogs adopted following seizure pursuant to this Local Law be spayed or neutered before or after release from impoundment.

**SECTION 12 ENFORCEMENT**

This Local Law may be enforced by either the Town Dog Control Officer or State Police Officer.

**SECTION 13 VIOLATIONS**

It shall be a violation, punishable as provided in Section 119, A.M.L., for:

- A. Any dog owner to fail to license any dog;
- B. Any dog owner to fail to have any dog identified as required by A.M.L., Section 112
- C. Any dog owner to knowingly affix any false or improper identification tag, or
- D. Any dog owner to violate any of the restrictions listed in this Local Law.

Upon a violation of this Local Law, the Town Dog Control Officer and/or police officer may proceed in accordance with Section 119, of the A.M.L.

Fines and penalties for any violation of this Local Law will be in amounts set forth in Section 119, A.M.L. and Section 18 of the Local Law.

Violations of this Local Law will be prosecuted pursuant to the Penal Law (Section 119.2 A.M.L.).

The Town Dog Control Officer shall serve appearance tickets personally upon violating dog owners as required by law.

**SECTION 14 DANGEROUS DOGS**

Dogs believed to be dangerous to human beings, domesticated or protected animals will be proceeded against pursuant to Section 121, A.M.L.

**SECTION 15 DISPOSITION OF FINES, PENALTIES AND/OR BAIL FORFEITURES**

All money collected by the Town Court as a fine, penalty and/or bail forfeiture pursuant to this Local Law or Article 7 of A.M.L. shall become the property of the Town of Westville.

**SECTION 16 COMPLAINTS**

- A. Any person who observes a dog in violation of this Local Law may file a complaint with the Town Dog Control Officer and/or State Police, specifying the nature of the violation, the date thereof, a description of the dog and the name and address, if known, of the owner of the dog.
- B. Upon receipt by the Town Dog Control Officer or State Police Officer of any such complaint, he/she may investigate said complaint or he/she may summon the alleged owner to appear in person before the Town Justice for a hearing, at which time, both the complainant and the 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 so order.

**SECTION 17      OBSTRUCTION OF GOVERNMENTAL ADMINISTRATION**

No person shall hinder, resist, or oppose the Dog Control Officer, Police Officer, or other persons authorized to administer or enforce the provisions of this Local Law in the performance of the officer's duties under this law.

**SECTION 18      REDEMPTION FEES**

The owner of said dog seized by the Dog Control Officer shall reimburse the Town of Westville for all expenses incurred by said Dog Control Officer in the normal course of her/his duties. Town fees include mileage, hourly wage and seizure fees, with a minimum fee of \$50 per dog, as set forth in A.M.L. 118C and by resolution of the Town of Westville Board at their annual organizational meeting held the first meeting of each year.

**SECTION 19      ENACTMENT CLAUSE**

This Local Law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. #2-Dog Control Law of ~~19~~ 2002 of the ~~(County)(City)(Town)(Village)~~ of Westville ~~Town Board~~ on July 8, 2002 in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

*Linda M. Jackson*

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 7/8/02

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF Franklin

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

*Richard H. Edwards*

Signature Richard H. Edwards  
Attorney for the Town of Westville

Title

~~XXXXXX~~  
~~XXXX~~ of Westville  
Town  
~~Village~~

Date: 7/8/02