

Local Law Filing

(Use this form to file a local law with the Secretary 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.

County City Town Village
(Select one.)

of Westville

**FILED
STATE RECORDS**

APR 01 2011

DEPARTMENT OF STATE

Local Law No. 3 of the year 2011

A local law "Dog Licensing and Control Law "
(Insert Title)

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

County City Town Village
(Select one.)

of Westville

as follows:

"SEE ATTACHED"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town of Westville
Local Law # 3 of the Year 2011

Be it Enacted by the Town Board of the Town of Westville as follows:

Section 1 Title

The Title of this Law shall be Dog Licensing and Control Law of the Town of Westville, County of Franklin.

Section 2 Authority

This Local Law is enacted pursuant to the provisions of (Chapter 59; Part T of the Laws of 2010) Article 7 of the Agriculture and Markets Law, the Municipal Home Rule Law of the State of New York, 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 of Westville. This law is being enacted because the running at large and uncontrolled behavior of dogs has caused harm to persons, damage to property, and created as nuisance within the Town of Westville.

Section 4 Definition of Terms

All terms not specifically defined herein shall have the meaning assigned to such terms within Article 108 of the Agriculture and Market Law of the State of New York.

Agriculture and Markets Law - The Agriculture and Markets Law of the State of New York as of the effective date of this Chapter, as amended by this Chapter, and as thereafter amended.

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

Dog Control Officer - Any person authorized by the Town Board of Westville, County of Franklin or State Legislature from time to time, directed or permitted to enforce the provisions of this local law.

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 a 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 there from.

Dog - Dog shall mean male and/or female, licensed and/or unlicensed, members 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 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 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 shall be deemed to be the owner of such dog(s) 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 dog(s) owned or harbored by minors and shall be responsible for compliance with this Local Law in the Town of Westville.

Identification Tag - A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and State, and other information deemed necessary by the Town Clerk.

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

Owner - Means any person who harbors or keeps a dog or other animal.

Owner of Record - Means any person in whose name a dog was last licensed pursuant to this chapter.

Person - A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

Resident - {A person} an individual who maintains a residence within the Town of Westville, County of Franklin, State of New York.

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 of Westville, County of Franklin and State of New York located in the Town of Westville that 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, County of Franklin, State of New York.

Section 5 Licensing of Dogs

No person shall own or possess a dog within the Town unless such dog is licensed, vaccinated and identified as provided in Article 7 of the Agriculture and Markets Law and the Laws of the Town.

Section 6 Licenses issued by Animal Shelters and Pounds

The Town does not allow the licensing of dogs by a shelter. The Shelter MUST send the adoptive dog owners to the Town Clerk in which the dog will be harbored for licensing.

Section 7, Proof of Vaccination against Rabies

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.

Section 8 Fees

(A) Individual Dog License Fee

- Nine Dollars (\$9.00) for a spayed or neutered dog
- Twenty-Two (\$22.00) for an un-spayed or un-neutered
- Twenty-Five (\$25.00) for Purebred dogs 1-10, with supporting paperwork
- Thirty-Five (\$35.00) for Purebred dogs 11-25, with supporting paperwork

(B) State Mandated Animal Population Control Surcharge

Each individual dog license for a spayed or neutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$1.00 payable at the time the dog license application is filed.

Each individual dog license for an un-spayed or un-neutered dog shall be subject to an Animal Population Control Surcharge in the amount of \$3.00 payable at the time the dog license application is filed.

(C) Dog Enumeration Surcharge

Each dog found to be unlicensed during a Town dog enumeration, shall be subject to a \$25.00 dog enumeration surcharge payable at the time the application is filed to license said dog.

(D) **Replacement Tag Fee**

A replacement tag fee of \$5.00 shall be charge to offset the costs associated with the provision and replacement of identification tags.

(E) **Fee Exemptions**

There shall be no fee for any license issued for the following: guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog, therapy dog or other law enforcement dog **as defined in Article 7 of the State Agriculture and Markets Law.**

Section 9 Dog Control Officer

The Town Board will by special resolution, maintain the appointment of a Town Dog Control Officer as required by Agriculture and Market and set compensation therein. Such Officer shall have the authority as set forth by Agriculture and Market Laws and shall be responsible for enforcing Agriculture and Marketing Laws 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 process in the execution of the provisions of this Local Law as specified in the Agriculture and Market Laws. The Dog Control Officer shall maintain all reports required by Agriculture and Market Laws.

Section 10 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 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, ponds, pools 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 to put such person in reasonable apprehension of bodily harm or injury except when such person may be on the owner's private property without said owner's consent.

- G. Habitually chase, run alongside or bark at motor vehicles, cyclist 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.
- K. Be without adequate food, water and shelter at all times.
- L. Be neglected, tortured, tormented, beaten or otherwise abused, mutilated or killed.
- M. Be confined to an area not free of feces and urine.
- N. Be attached to a leash, chain, wire or other tether that does not allow the dog adequate, free movement.

Establishment of the facts 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 11 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 licensed whether on the owner's property or not; or
 - 2. Any dog found running at large in violation of the above said 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 on 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 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 12 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 19 of this Local Law. Impoundment fees shall be paid to the Dog Control Officer.

Section 13 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 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 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 17 and 20 of the is 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 16 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 property of the Town of Westville.

Section 17 Penalties

- A. Any person convicted of violating any provisions of this Local Law shall be fine not to exceed Twenty-Five Dollars (\$25.00) for the first offense. Upon a second such conviction within a one-year period from the date of the first offense of this Local Law, the violator shall be punished, by a fine, not to exceed Fifty Dollars (\$50.00). Upon a third conviction within one year period from the date of the first conviction of this Local Law, a violator may be punished a fine not to exceed One Hundred Dollars (\$100.00). Upon the forth such conviction within two years from the date of the first conviction of this Local Law, a person shall be punished by a mandatory fine of Three Hundred Fifty Dollars (\$350.00). The minimum fines set in this section maybe amended pursuant to a Town Board Resolution.

- B. In addition to the fines imposed under this section, the Town Justice before whom any violator of this Local Law is convicted shall have the power and authority to, among other things: a.) order such violators to compensate the owner of any private property for the damages done to such property by the dog owned by the violator. b.) order the dog or dog(s) seized and impounded pursuant to this Local Law and Section 117 of the A.M.L..

Section 18 Complaints

- A. Any person who observes a dog 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 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 19 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 20 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 his/her duties. Town fees included mileage, hourly wage and seizure fees, with a minimum fee of \$50.00 per dog, as set forth in A.M.L. 118 C and by resolution of the Town of Westville Board at their annual organizational meeting held the first meeting of each year.

Section 21 Severability

If any clause, sentence, paragraph, section or part of this Local Law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 22 Repeal

All ordinances, Local Laws, and regulations inconsistent with this Local Law are hereby repealed. Specifically, the following Town of Westville Law, Local Law of 2002, Dog Control Law of the Town of Westville.

Section 23 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. 3 of 2011 of the ~~(County)(City)(Town)(Village)~~ of Westville was duly passed by the Westville Town Board on March, 7 2011, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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 _____ 20____, in accordance with the applicable provisions of law.

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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 20____ 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 _____ 20____, 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 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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 One (1) above.

Alvin J. Brady

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

Date: March 25, 2011

(Seal)

(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.

[Signature]

Signature
Town Attorney

Title

County _____
City of Westville
Town _____
Village _____

Date: March 18, 2011