

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.)

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~~

of New Scotland.....

Local Law No. 2..... of the year 2006..

A local law relating to the control, confining and leashing of dogs.

(Insert Title)

.....
.....
.....

Be it enacted by the Town Board..... of the

(Name of Legislative Body)

~~COUNTY~~

~~CITY~~

Town

~~VILLAGE~~

of New Scotland..... as follows:

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

DOG CONTROL LAW OF THE TOWN OF NEW SCOTLAND

Local Law No. 2 of the Year 2006

A local law relating to the control, confining and leashing of dogs.

Section 1: Purpose. The Town Board of the Town of New Scotland finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons, damage to property and have created nuisances within the town. The purpose of this local law is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the town.

Section 2: Authority. This local law is enacted pursuant to the provisions of Section 124 of the Agriculture and Markets Law of the State of New York.

Section 3: Title. The title of this law shall be “Dog Control Law of the Town of New Scotland.”

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” means the Agriculture and Markets Law of the State of New York;
- (b) “Dog” means male or female, licensed and unlicensed, members of the species *canis familiaris*;
- (c) “Owner” means person entitled to claim lawful custody and possession of a dog, and who is responsible for purchasing the license for such dog unless the dog is or has been lost, and such loss was promptly reported to the dog warden and a reasonable search has been made. If a dog is not licensed, the term owner shall designate and cover any person or persons, firm, association or corporation, who, or at which, at any time owns or has custody or control of, harbors, or is otherwise responsible for any dog 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 any 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 the owner of any dog is found to be in violation of this chapter, shall be under eighteen years of age, the head of the household in which said minor resides, shall be deemed to have custody and possession of said dog and be in violation of this local law;

(d) "Public Property" means any real property owned by, or under the jurisdiction and control of the town, which is used for recreational purposes by the public including, but not limited to, parks or playgrounds;

(e) "Run at large" means to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands;

(f) "Town" means the Town of New Scotland;

(g) "Dangerous dog" means any dog, which when unprovoked, approaches a person in a vicious or terrorizing manner in apparent attitude of attack upon the streets, sidewalks, or private property other than the dog owner's property, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked which causes injury or otherwise endangers the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting.

Notwithstanding the definition of a dangerous dog above, no dog may be declared dangerous if any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which, at the time of such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(h) "Enclosure" means a fence or structure of at least six (6') feet in height, forming or causing an enclosed structure suitable to prevent the entry of young children, and suitable to confine a dangerous dog in conjuncture with other measures which may be taken by the owner or keeper, such as tethering of the dangerous dog. Such enclosure shall be securely enclosed, locked and designed with secure sides, top and bottom, and shall be designed to prevent the animal from escaping from enclosure.

Section 5: Restrictions. It shall be unlawful for any owner of any dog in the town to permit or allow such dog to:

(a) Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person, and under the full control of such owner or person. For the purpose of this local law, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner;

(b) Engage in habitual loud howling, barking, crying or whining, or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog;

(c) Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner thereof;

(d) Habitually chase, run alongside of, or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property;

(e) Create a nuisance by defecating, urinating or digging on public property without the consent or approval of the owner of such property;

It shall be unlawful for any owner of a dog in the town to:

(f) Have a female dog, if in heat, off the owner's premises unrestrained by a leash;

(g) Harbor an unlicensed dog pursuant to the New York State Agriculture and Markets Law;

(h) Harbor or maintain, in the Town of New Scotland, any dog which is found to be a dangerous dog, except in accordance with section 121 of the Agriculture and Markets Law.

Section 6: Seizure of Dogs and Appearance Tickets.

1. Any dog control officer, peace officer acting pursuant to his special duties, or police officer shall seize:

(a) any dog which is not identified and which is not on the owner's premises;

(b) any dog which is not licensed, whether on or off the owner's premises.

(c) any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is a dangerous dog.

(d) any dog which poses an immediate threat to the public safety.

2. Such dog control officer, peace officer, or police officer, having reasonable cause to believe that a person has violated this local law, or Article 7 of the Agriculture and Markets Law, shall issue and serve upon such person an appearance ticket for such violation.

3. Any dog control officer, peace officer, or police officer who seizes a dog pursuant to this local statute, shall comply with the procedure set forth in Article 7 of the Agriculture and Markets Law in effectuating any such seizure herein.

4. Any dog control officer, peace officer, or police officer, upon the knowledge of any person harboring four or more dogs, and not possessing a KENNEL LICENSE, as allowed by the Town's Zoning Law, shall report any such violation to the Code Enforcement Officer, for enforcement.

Section 7: Fees for seizure of dog. Impoundment fees for seizure of any dog pursuant to Section 6 hereof shall be as provided in Section 118 of the Agriculture and Markets Law. In addition, the owner of any dog so seized shall be liable for any and all necessary expenses and fees including, but not limited to, kennel fees.

Section 8: Dangerous Dogs. A dog control officer or police officer who has probable cause to believe that a dog is dangerous as defined in Section 4 (g) of this chapter, shall proceed in the manner set forth in Section 121 of the Agriculture and Markets Law.

Section 9: Penalties: In addition to any other fees or penalties herein, or provided for in the Agriculture and Markets Law, any person convicted of a violation of any of the provisions of Section 5 hereof shall be guilty of a violation and shall be subject to the following:

(a) For a first offense, a fine not to exceed \$100, or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;

(b) For a second offense committed within a period of one year, a fine not to exceed \$250, or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment;

(c) For a third or subsequent offense committed within a period of one year, a fine not to exceed \$500, or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment.

Section 10: 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 11: Repealer: This local law shall supercede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of New Scotland, and they shall be, upon the effectiveness of this local law, null and void.

Section: 12: Effective date. This local law shall take effect 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 of 2006 of the ~~(County)~~(City)(Town)(Village) of New Scotland was duly passed by the ~~(Name of Legislative Body)~~ on February 8 2006, in accordance with the applicable provisions of law.

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 ~~(Name of Legislative Body)~~ 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.

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 ~~(Name of Legislative Body)~~ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. 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 ~~(Name of Legislative Body)~~ 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.

* 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 _____, above.

Deanne R. Decker
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 2/13/06

(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 Albany

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.

L. Gambale
Signature
Town Attorney
Title

~~County~~
~~City~~ of New Scotland
~~Town~~
~~Village~~

Date: 2/10/06