

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.

Town of Colonie
Local Law No. 3 of the year 2009

A local law amending Chapter 79 of the Code of the Town of Colonie entitled “Dogs and Other Animals.”

Be it enacted by the Town Board of the Town of Colonie as follows:

SECTION 1. § 79-1. Purpose.

This article is to promote the health, safety and general welfare of the people of the Town of Colonie, New York, including the protection of the property of the Town and its inhabitants, and the preservation of peace and good order by imposing restrictions upon the keeping and running of dogs within the Town and to implement provisions of Article 7 of the Agriculture and Markets Law as adopted by the New York State Legislature.

SECTION 2. § 79-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AT LARGE — Any dog that is off the premises of its owner or custodian or is not under the immediate control of its owner or custodian or a responsible person over 16 years of age who is able to control the dog. No dog shall be deemed to be at large if it is:

- A. A guide dog actually leading a blind person or a dog being trained as a guide dog;
- B. A hearing dog actually aiding a deaf person or a dog being trained to assist a deaf person;
- C. A police work dog in use for police work; or
- D. Accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

CUSTODIAN — One that has a dog in his or her custody.

DOG — Any member of the species canis familiaris.

DOMESTIC ANIMAL — Any domesticated sheep, horse, cattle, goat, swine, fowl, duck, goose, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the State Department of Environmental Conservation before

release from captivity, except that the varieties of fowl commonly used for cockfights shall not be considered domestic animals for the purposes of this article.

GUIDE DOG — Any dog that is trained to aid the blind and is actually used for such purpose.

HARBOR — To provide food or shelter to any animal.

HEARING DOG — Any dog that is trained to aid the deaf and is actually used for such purpose.

IDENTIFICATION TAG — A tag which sets forth an official identification number as required by the provisions of this article.

IDENTIFIED DOG — Any dog carrying an identification tag as provided in § 112 of Article 7 of the Agriculture and Markets Law.

OWNER — Any person who harbors or keeps any animal, except that, if the owner is a person under 18 years of age, then the owner shall be deemed to be the parent or guardian of such person.

OWNER OF RECORD — The person in whose name any dog was last licensed pursuant to either Subdivision 1 or Subdivision 2 of § 109 of Article 7 of the Agriculture and Markets Law, except that, if any license is issued on application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of § 113 of Article 7 of the Agriculture and Markets Law, the owner shall be deemed to be the owner of record of such dog, except that, if the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

PERSON — Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

POLICE WORK DOG — Any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

SECTION 3. Section 79-3 of the Code of the Town of Colonie entitled “Licensing requirements; rabies vaccination” is deleted, and the following Sections of Chapter 79 are renumbered accordingly.

SECTION 4. § 79-34. License fees.

The application for a dog license or a purebred license shall be accompanied by the license fee set forth in the Fee Schedule pertaining to permits and licenses issued by the Town Clerk’s Office, duly adopted by Town Board resolution, and available for inspection in the Town Clerk’s Office.

SECTION 5. Section 79-5 of the Code of the Town of Colonie entitled “Identification” is deleted, and the following Sections of Chapter 79 are renumbered accordingly.

SECTION 6. Section 79-6 of the Code of the Town of Colonie entitled “Change in ownership; lost or stolen dog” is deleted, and the following Sections of Chapter 79 are renumbered accordingly.

SECTION 7. § 79-4. Animal Control Officers

This article shall be enforced by the Town of Colonie Animal Control Officers and Police Department. In addition, any Animal Control Officer or any peace officer authorized by the Town of Colonie to assist in the enforcement of this article may serve any process related to any proceeding, whether criminal or civil in nature and including an appearance ticket.

SECTION 8. § 79-5. Impoundment fees.

Impoundment fees shall be set forth in the Fee Schedule pertaining to permits and licenses issued by the Town Clerk’s Office, duly adopted by Town Board resolution, and available for inspection in the Town Clerk’s Office.

SECTION 9. § 79-6. Offenses; penalties.

A. It shall be a violation, punishable as provided in Subsection C of this section, for:

- (1) Any owner or custodian of any dog to permit or allow any dog to run at large unless such dog is restrained by an adequate collar and leash not exceeding eight feet in length or unless accompanied by and under the immediate control of its owner or a responsible person over 16 years of age who is able to control the animal.
- (2) Any owner or custodian of any dog to permit or allow any dog to engage in frequent loud howling, barking or whining or to conduct itself in such a manner so as to unreasonably disturb the comfort or repose of any person.
- (3) Any owner or custodian of any dog to permit or allow any dog to cause damage or destruction to property or commit a nuisance upon the premises of any person.
- (4) Any owner or custodian of any dog to permit or allow any dog to chase or otherwise harass any person in such manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- (5) Any owner or custodian of any dog to permit or allow any dog to habitually chase or bark at motor vehicles, bicycles or pedestrians.
- (6) Any owner or custodian of any dog to permit or allow any dog to run at large when in heat; such dog shall be confined to the premises of the owner during such period.

B. It shall be the duty of the Animal Control Officer of the Town of Colonie to bring an action against any person who has committed within the Town of Colonie any violation set forth in this section. The Town of Colonie may elect either to prosecute such action as a violation under the Penal Law or to commence an action to recover a civil penalty.

C. A violation of this section shall be punishable, subject to such an election, either:

(1) Where prosecuted pursuant to the Penal Law, by a fine of not more than \$50, except that:

(a) Where the person was found to have violated this section or the former Dog Control Ordinance of the Town of Colonie within the preceding five years, the fine may be not more than \$100; and

(b) Where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both; or

(2) Where prosecuted as an action to recover a civil penalty, by a civil penalty of not more than \$50, except that:

(a) Where the person was found to have violated this section or the former Dog Control Ordinance of the Town of Colonie within the preceding five years, the civil penalty may be not more than \$100; and

(b) Where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not more than \$250.

SECTION 10. Section 79-10 of the Code of the Town of Colonie entitled “Dangerous Dogs” is deleted.

SECTION 11. Section 79-11 of the Code of the Town of Colonie entitled “Protection of deer” is deleted.

SECTION 12. Section 79-12 of the Code of the Town of Colonie entitled “Nigh quarantine” is deleted.

SECTION 13. Section 79-13 of the Code of the Town of Colonie entitled “Indemnification for dog damage” is deleted.

SECTION 14. Section 79-14 of the Code of the Town of Colonie entitled “Animal Control Committee; rules and regulations” is deleted.

SECTION 15. This local law shall become effective upon its filing in the Office of 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 2009** of the **Town of Colonie** was duly passed by the Town Board on **March 26, 2009** 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 (Town) _____ of _____ was duly passed by the _____ on 20____, and was (approved)(not disapproved)(repassed (Name of Legislative Body) 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 (_____) (Town) (_____) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by _____ 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 I 9 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 _____ (Town) (_____) of _____ was duly passed by the (Name of Legislative Body) on _____ 20____ and was (approved)(not disapproved)(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 chairman 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 of 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.)

Clerk of the Town or officer designated by local legislative body

(Seal)

Date: March 27, 2009

(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.

Signature Town of Colonie Town Attorney

Date: March 27, 2009