

A1

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 Richmondville

Local Law No. 1 of the year 2010

A local law entitled "Dog Control Law of the Town of Richmondville".
(Insert Title)

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

County City Town Village

(Select one:)

of Richmondville

as follows:

See attached sheets annexed hereto and made a part hereof.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

DAVID A. PATERSON
GOVERNOR

RUTH NOEMI COLÓN
ACTING SECRETARY OF STATE

RE: TOWN of RICHMONDVILLE, Local Law No. #1, 2010, filed on 12/17/10

DOS-0236

Dear Sir/Madam:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us/corp/misc.html.

Sincerely,
Linda Lasch
principal Clerk
State Records and Law Bureau
(518) 474-2755

(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. 1 of 2010 of the (County)(City)(Town)(Village) of Richmondville was duly passed by the Town Board on December 9, 2010, 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 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 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 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 1 _____ above.


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


Date: 12/9/10

(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 SCHOHARIE

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
Marvin D. Parshall, Jr. -- Town Attorney
Title

County
City of Richmondville
Town
Village

Date: December 9, 2010

Dog Control Law of the Town of Richmondville

SECTION 1: Purpose: The Town Board of the Town of Richmondville finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs may cause physical harm to persons, damage to property and may create nuisances within the Town. The Town Board desires to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage. The Town Board further desires to protect the health, safety and well being of persons and property by imposing regulations on the keeping and running at large of dogs within the town. The Town Board further desires to comply with new state regulations and amendments to Article 7 of the Agriculture and Markets Law, effective January 1, 2011, regarding the licensing of dogs, processing of applications and other delegated functions.

SECTION 2: Authority: The Local Law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law, Article 8 of the Town Law and Article 3 of the Municipal Home Rule Law, of the State of New York.

The procedures and laws of the New York State Criminal Procedure Law applicable to "violations", as defined in Article 10 of the New York State Penal Law, shall apply to this Local Law.

SECTION 3: Title: The title of this Local Law shall be Dog Control Law of the Town of Richmondville.

SECTION 4: Definition of Terms: As used in this Local Law the following words shall have the following respective meanings:

- (a) "Dog" means male and/or female, licensed and/or unlicensed, members of the species *canis familiaris*.
- (b) "Person" means any individual or individuals, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

(c) "Owner" means any person who harbors or keeps any dog, licensed or unlicensed, and/or any person entitled to claim lawful custody, control or possession of a dog who is responsible for purchasing the license, and/or any person who is otherwise responsible for any dog which is kept, brought or comes within the Town. In the event that any dog is found in violation of this Local Law and/or Article 7 of the Agriculture and Markets Law, and is owned by a person under the age of eighteen years of age, the owner shall be deemed to be the parent, guardian and/or head of household in which said person resides.

(d) "Run at Large" means to be in a public place or on private land, unleashed and without the knowledge, consent, and approval of the owner of such lands.

(e) "Town" means the Town of Richmondville.

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 (i) the dog is accompanied by its owner or a responsible person, and under the full and immediate supervision and control of such owner or person, or (ii) the dog is a police work dog in use for police work or (iii) the dog is a herding dog. For the purpose of the Local Law, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.

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

(c) Uproot, digs, or otherwise damages any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner.

(d) Chase, jump upon or at or otherwise harass any person in such manner as to reasonable cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or physical injury.

(e) 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.

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

(g) If a female dog, when in heat, be off the owner's premises, unrestrained by a leash.

SECTION 6: Licensing of Dogs:

(a) All dogs in the Town of Richmondville must be licensed with the Town Clerk by the age of four (4) months and are required to present a current Certificate of Rabies at the time of licensing or the renewal of an existing license.

A current rabies vaccination may be waived only if a statement from a licensed veterinarian is filed at the time of application for licensing stating such rabies vaccination would endanger the dog's life.

(1) The Town Clerk shall assign an identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times, except that the tag is not required to be worn while the dog is participating in a dog show.

(2) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.

(3) Any person wishing to replace a tag previously issued shall pay the sum of **\$5.00** to the Town Clerk for a replacement tag.

(b) All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue. No license or renewal shall be issued for a period expiring after the expiration date of the current rabies certificate for the dog being licensed.

(c) Fees for Licensing of Dogs:

The fee for a spayed or neutered dog will be \$8.00, (which included the assessment of a \$1.00 surcharge for the purpose of carrying out animal population control) and the fee for an unsprayed or unneutered dog will be \$15.00, (which included the assessment of a \$3.00 surcharge for the purpose of carrying out animal population control) with such fees being reviewed by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.

(d) Enumeration fee: When the Town Board determines the need for a dog enumeration, a fee of \$25.00 will be assessed to the owner(s) of all dogs found unlicensed or not renewed at the time the enumeration is conducted.

(e) Purebred License: The Town of Richmondville will not be issuing purebred or kennel licenses. All dogs will be licensed individually as per fee system stated above.

(f) Exemption of fee: The Town of Richmondville will exempt a licensing fee for any "guide dog", "service dog", "hearing dog", "detection dog", "war dog", "working search dog", "police work dog" and/or "therapy dog", as those dogs are defined in Article 7 of the Agricultural and Markets Law.

(g) The Town of Richmondville does not allow the licensing of dogs by a shelter. The shelter MUST send the adoptive dog owners to the Clerk of the Town, Village or City in which the dog will be harbored, for licensing.

(h) All dog licenses may be purchased by visiting the Town Clerk's office or by regular mail properly addressed to the Town Clerk. If licensing or renewing a license by mail, the appropriate fee must accompany the forms. There will be NO refund of fees.

(i) All fees will be used in funding the administration of the Dog Control Law of the Town of Town of Richmondville, except those assessment surcharges collected for purposes of carrying out the animal population control program.

(j) Fees for Seizure of Dogs:

(1) Any dog found in violation of the provisions of this law may be seized pursuant to the provisions of Section 117 of the Agriculture and Markets Law.

(2) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in Section 117 of the Agriculture and Markets Law.

(3) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth herein:

- i. Seventy-five dollars (**\$75.00**) for the first impoundment of any dog owned by that person.
- ii. One hundred dollars (**\$100.00**) for the first 24 hours or part thereof, and five dollars (**\$5.00**) for each additional 24 hours or part thereof, for the second impoundment within one year of the first impoundment, of any dog owned by that person.
- iii. One hundred fifty dollars (**\$150.00**) for the first 24 hours or part thereof, and ten dollars (**\$10.00**) for each additional 24 hours or part thereof, for the third and subsequent impoundment(s), within one year of the first impoundment, of any dog owned by that person.

(4) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in Subdivision (3) of this Section whether or not such owner chooses to redeem his or her dog.

(5) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized pursuant to the provisions of Section 117 of the Agriculture and Markets Law. The owner of the unredeemed dog shall pay the euthanasia fees per animal.

(k) Change in owner or address. In the event of a change in ownership of any dog which has been licensed pursuant to this Local Law, or change of address of the owner of record of any dog, the owner of record shall, within ten (10) days of the change, file with the Town Clerk a written notification of such change. Such owner of record shall be liable for any violation of this Local Law and/or Article 7 of the Agriculture and Markets Law, until such filing is made or until the dog is licensed in the name of the new owner.

(l) Lost or stolen dog. If any dog which has been licensed is lost or stolen, the owner of record shall, within ten (10) days of discovery of such loss or theft, file with the Town Clerk a written notification of such event. In the case of loss or theft, the owner of record shall not be liable for any violation of this Local Law committed after such notification has been made.

(m) Death of dog. In case of the death of a licensed dog, the owner of record shall notify the Town Clerk of the dog's death either before or upon receipt of a renewal notice from the Town Clerk.

SECTION 7: Procedure for Seizure of Dogs:

(a) The Dog Control Officer, as defined in Section 108 of the Agriculture and Markets Law, any police officer and/or any peace officer acting pursuant to his/her special duties, shall have authority to seize:

- (1) Any unlicensed dog whether on or off the owner's premises;
- (2) Any dog not wearing a tag, and after January 1, 2011, not identified, and which is not on the owner's premises, and

(3) Any dog found in violation of paragraphs (a)-(g) of Section 5 of this Local Law.

Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law.

(b) The Dog Control Officer, as defined in Section 108 of the Agriculture and Markets Law, any police officer and/or peace officer acting pursuant to his/her special duties, observing a violation of this Local Law in his/her presence shall be authorized to issue and serve process in accordance with Section 113 of the Agriculture and Markets Law.

(c) Any person who observes a dog in violation of the Local Law may make a complaint to the Dog Control Officer, a police officer, and/or a peace officer acting pursuant to his/her special duties, specifying the nature of the violation, the date thereof, a description of the dog and the name and a residence, if known, of the owner of such dog. Such complaint may serve as a basis for enforcing the provisions of the Local Law.

SECTION 8: Penalties: A violation of this Local Law shall be punishable by:

(a) A fine of not less than \$25.00 but not more than \$250.00 for the first violation;

(b) A fine of not less than \$50.00 but not more than \$500.00 where the person was found to have violated this Local Law and/or Article 7 of the Agriculture and Markets Law within the preceding 5 years;

(c) A fine of not less than \$100.00 but not more than \$1,000.00 or imprisonment for not more than 15 days, or both, where the person was found to have violated this Local Law and/or Article 7 of the Agriculture and Markets Law two or more times within the preceding 5 years.

In addition to the penalties provided above, the Town Board of the Town of Richmondville may also maintain an action or proceeding in the name of the town in any court of competent jurisdiction to compel compliance with, or to restrain by injunction, any violation of this local law and/or Article 7 of the Agriculture and Markets Law.

All
Pursuant to Agriculture and Markets Law §119 all money and penalties collected for violations of Article 7 of the Agriculture and Markets Law and/or this Local Law shall remain the property of the Town of Richmondville.

SECTION 9: Prosecution: The local Dog Control Officer, any police officer and/or peace officer acting pursuant to his special duties, is authorized to prosecute any violation of this local law in the Town Court of the Town of Richmondville, or such other court having competent jurisdiction over the proceeding, and shall have authority to issue process in accordance with §122 of the Agriculture and Markets Law.

SECTION 10: Dispositions: Unless otherwise stated herein, violations of this Local Law shall constitute a “violation” as defined in Article 10 of the New York State Penal Law, and all dispositions, sentences and penalties applicable to “violations” under the New York State Penal Law, shall apply to this Local Law.

SECTION 11: 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 12: Repealed: This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the control of dogs within the Town of Richmondville, including but not limited to, Local Law #1 of the year 1984 (“Relating to Habitual Loud Howling and Barking by Dogs”), Local Law #5 of the year 1990 (“Instituting Local Dog Licensing Fee”), Local Law # 3 of the year 2001 (“Dog Control Law of the Town of Richmondville”) and Local Law #2 of the year 2005 (“Schedule of Impoundment Fees For Seizure of Dogs”), and they shall be upon the effectiveness of this Local Law, null and void.


SECTION 13: Inconsistency: Notwithstanding the enactment of this Local Law, all other sections and provisions of Article 7 of the Agriculture and Markets Law not provided for herein, shall remain in full force and effect and shall in no way be diminished by the enactment of this Local Law.

Any inconsistency between this Local Law and any other valid enforceable law, including but not limited to Article 7 of the Agriculture and Markets Law, shall be resolved in favor of the provisions of this Local Law taking precedence, to the extent of such inconsistency and according to law.

SECTION 14: Effective Date: This Local Law shall be effective January 1, 2011 after filing with the Secretary of State.

I hereby certify that the Local Law annexed hereto, designated as **Local Law No. 1** of the year **2010** of the Town of Richmondville was duly passed and enacted by the Town Board of the Town of Richmondville on December 9, 2010 in accordance with the applicable provisions of law.

(seal)



Margaret Smith, Town Clerk

Town of Richmondville

Date: December 9, 2010.