

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

of Sandy Creek

Town

Village

Local Law No. 2 of the year 2011

A local law Establishing Dog Control Regulations for the Town of Sandy Creek, New York.

(Insert Title)

Be it enacted by the Town Board of the

(Name of Legislative Body)

County

City

of Sandy Creek

as follows:

Town

Village

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

SECTION 1. TITLE:

This Local Law shall be referred to as “Local Law No. 2 of the Year 2011, A Local Law Establishing Dog Control Regulations for the Town of Sandy Creek, New York”.

SECTION 2. AUTHORITY:

This Local Law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

SECTION 3. PURPOSE:

The purpose and intent of this law shall be to preserve the public peace and good order in the Town of Sandy Creek and to contribute to the public welfare and preservation and protection of the property and the person of the inhabitants of the Town of Sandy Creek by declaring and enforcing certain regulations and restrictions on activities of all dogs and owners of dogs within the Town of Sandy Creek.

SECTION 4. DEFINITION OF TERMS:

As used in this Local Law, the following words shall have the following respective meanings:

- A. Clerk. Clerk means the clerk of the town where the licenses are validated or issued.
- B. Confined. That such animal is securely confined or restrained and 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 arranged so that the animal cannot reach or endanger any person or any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, it is securely confined in a crate, or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.
- C. Dangerous Dog. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or other domestic animal as defined in Section 121 of the Agriculture and Markets Law of the State of New York or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, or other domestic animal as defined in Section 121 of the Agriculture and Markets Law of the State of New York, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat, or other domestic animal as defined in Section 121 of the Agriculture and Markets Law of the State of New York, as a result of the attack or bite; (ii) if both animals are owned by the same person; (iii) if such attack occurs on the property of the attacking or biting dog’s owner or custodian; or (iv) for

other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaging with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog-handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

- D. Dog. Dog shall mean male or female, licensed and unlicensed, spayed or unspayed, neutered or un-neutered, members of the species *Canis familiaris*.
- E. Dog Control Officer. Any person authorized by the Town Board to enforce the provisions of this Local Law.
- F. Domestic Animal: any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the Department of Environmental Conservation, llama, goat, swine, fowl, duck, goose, swan, 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 cock fights shall not be considered domestic animals for the purposes of this Local Law.
- G. Harbor. To provide food and/or shelter to any dog.
- H. Identification Tags. A tag issued by the Town Clerk which sets forth the identification number together with the name of the town and state, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.
- I. Owner. The party purchasing the license unless dog is or has been lost, and such loss reported to the dog control officer and reasonable search has been made. If an animal is not licensed, the term of owner shall designate and cover any person or persons, firm, association or corporation, who or which at any time owns or has custody or control of , harbors, or is otherwise responsible for any animal which is kept, brought or comes within the Town of Sandy Creek. 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 the Local Law. In the event any dog found to be in violation of this Local Law shall be owned by a minor, the legal guardian or head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog and violation of this Local Law.
- J. Recreational Areas. Recreational areas shall mean any real property owned by the Town of Sandy Creek that is used for recreational purposes by the public including, but not limited to, parks or playgrounds.
- K. Restraint. A dog is under restraint if it is controlled by a leash or is in the presence of its owner or responsible person able to control it by command or is within a vehicle being

driven or parked on the street or within the property limit of its owner or keeper, or upon the premises of another with the consent of such other person.

- L. Run At Large. Run at large shall mean to be in a public place, including but not limited to, parks, roadways, highways, walkways, pathways and sidewalks, or on private lands without the knowledge, consent and approval of the owner of such lands without restraint.
- M. School Premises. Any real property situate within the Town of Sandy Creek that is used for educational purposes or purposes incidental thereto.
- N. Town. Town shall designate the area within the corporate limits of the Town of Sandy Creek.
- O. Vicious Dog: A canine or canine crossbreed that has: (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by a dog control officer as authorized by Local Law, that it is a dangerous dog, provided that its owner has been given notice of that finding.

SECTION 5 - LICENSING OF ALL DOGS:

- A. Licensing of Dogs.
 - 1. Any person owning, possessing or harboring a dog four months of age or over in the Town of Sandy Creek shall maintain a valid license for said dog and shall place and keep on such dog a collar to which shall be securely attached a valid identification tag for that dog, in accordance with the requirements of this Local Law. No license shall be required for any dog which is under the age of four months and which is not at large except as otherwise provided in this Local Law.
 - 2. The Town of Sandy Creek does not allow the licensing of dogs by a shelter or the dog control officer. The shelter must send the adoptive dog owner(s) to the office of the Town Clerk in which the dog will be harbored for licensing or to the office of the Town Clerk where the shelter is located for the purchase of the license for adoption purposes.
 - 3. All dog licenses may be purchased from the office of the Town Clerk in person or by regular mail. If licensing or renewing a license by mail, the appropriate fee must accompany the licensing forms.
 - 4. All dog licenses shall be for a period of one, two or three years and shall expire on the last day of the month one, two or three years from the date of issue. In no event shall a dog license be issued for longer than the duration of the rabies' vaccination.

B. Rabies Vaccination Required.

At the time of licensing or license renewal, a current, valid certificate, indicating the dog has been vaccinated to prevent the spread of rabies is required herein and must be presented to the office of the Town Clerk.

1. Any person owning or possessing or harboring a dog, who willfully fails or refuses to submit said dog for vaccination within ten (10) days after a request by the dog control officer, peace officer, police officer or health officer shall be subject to the penalties provided in this Local Law.
2. In lieu of the rabies certificate, an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that the life of the dog would be endangered by vaccinating due to old age or other reasons.

C. Spayed or Neutered Dogs.

In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the office of the Town Clerk. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog.

D. Application Fee.

Applications for a license or renewal thereof shall be accompanied by a nonrefundable processing fee as established from time to time by resolution of the Town Board, provided that the total fee for an unaltered dog shall be at least five (\$5.00) dollars more than the total fee for a spayed or neutered dog. In addition to the fee charged by the Town, a one (\$1.00) dollar fee for altered dogs and a three (\$3.00) dollar fee for unaltered dogs shall be collected for the purposes of carrying out animal population control efforts.

E. Application for License.

An application for a license or renewal shall be in the form prescribed by the Sandy Creek Town Clerk and shall provide for the following minimum information:

1. The name, residence address and telephone number of each owner;
2. The name, sex, approximate age, breed, color, markings and other identifying details of the dog;

3. State whether the dog has been spayed or neutered; and
4. Such other information or documentation deemed necessary by the Town Clerk to effectuate the purposes of this Local Law.

F. Issuance of License.

Upon validation by the Town Clerk, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

G. Identification Tag.

The Town Clerk shall assign an identification number to a dog when it is first licensed.

1. 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.
2. Any person wishing to replace a tag previously issued shall pay a fee as set from time to time by resolution of the Town Board to the Town Clerk for a replacement tag.

H. Purebred Licenses.

The annual fee for each pure bred license issued pursuant to Article 7 of the Agriculture and Markets Law shall be:

1. \$25.00, if no more than 10 registered pure bred dogs or pure bred dogs eligible for registration over the age of 4 months are harbored on the owner's premises at the time of the application;
2. \$50.00, if no more than 25 registered pure bred dogs or pure bred dogs eligible for registration over the age of 4 months are harbored on the premises at the time of the application; or
3. \$100.00, if more than 25 registered pure bred dogs or pure bred dogs eligible for registration over the age of 4 months are harbored on the premises at the time of the application.

Purebred dogs when participating in a dog show are exempt from wearing license tags so long as the dog is licensed in the town where it resides.

I. Exemptions.

The following dogs are exempt from licensing fees:

Any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. A certificate that the dog has been trained for such purpose must be submitted to the Town Clerk. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog", "Hearing Dog", "Service Dog", "Working-Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as may be appropriate, by the Town Clerk. Dogs when participating in a dog show are also exempt so long as the dog is licensed in the town where it resides.

J. Change of Ownership; Lost or Stolen Dogs; Death, Change of Address.

No license shall be transferable. The owner of record shall, within ten days of the transfer of ownership of any dog, file with the Town Clerk notification of such change. The new owner shall immediately make application for a license for such dog.

1. Lost or Stolen Dogs. Any dog which has been lost or stolen, the owner of record shall within ten days of discovery of such loss or theft shall file with the Town Clerk notification of such event.
2. Death of Dog. In the case of 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.
3. Change of Address. All dogs shall be licensed with the office of the Town Clerk within 30 days of establishing residence in the Town.

K. Enumeration.

When the Town Board determines the need for a dog enumeration, in addition to the licensing fee charged, an additional surcharge, as determined from time to time by resolution of the Town Board, for recovering costs associated with an enumeration conducted shall be charged. Should a dog be identified as unlicensed during such enumeration, such additional fee shall be the property of the Town and shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the Town for enforcing this law and for spaying or neutering animals; and offsetting costs associated with the provision and replacement of identification tags.

SECTION 6. RESTRICTIONS:

- A. Except as provided in Section 6 (B) below, it shall be unlawful for any owner of any dog in the Town of Sandy Creek to permit or allow such dog to:
1. Run at large 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.

For the purpose of this Local Law, a dog or dogs hunting in company of a hunter or hunters shall be considered under its owner's command.

2. 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.
 3. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property not belonging to the owner of such dog without the consent or approval of the property owner.
 4. 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.
 5. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles, while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog without the consent of the owner of such property.
 6. Create a nuisance by digging on public property or private property without the consent of the owner of such property.
 7. Defecate on public property or private property unless it is accompanied by its owner or a responsible person who immediately removes the feces from such property.
 8. If an unspayed female dog when in heat, be permitted to be outside a building or a fenced enclosure unless on a leash.
 9. Be at large on any school premises or recreational areas.
 10. Roam with one or more other dogs in a pack.
 11. Kill other animals except rats and mice.
 12. No owner shall fail to provide a dog with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and humane care and treatment.
- B. A dog shall be permitted to run at large on its owner's private property so long as the dog can be placed under restraint should it become uncontrollable or dangerous to passersby.
- C. Establishment of the fact or facts that a dog has committed any of the acts prohibited by Section 6 of this Local Law shall be presumptive evidence against the owner or harbinger of such dog that he has failed to properly confine or leash or control his dog.

SECTION 7. ENFORCEMENT:

This Local Law shall be enforced by any dog control officer, police officer or peace officer when acting pursuant to his special duties.

SECTION 8. SEIZURE, IMPOUNDMENT, REDEMPTION AND ADOPTION:

- A. Any dog found in violation of the provisions of Section 5 or 6 of this Local Law may be seized.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for a period of five business days, excluding the day the dog is impounded. In the event the owner of a seized dog is known, such dogs shall be properly cared for, sheltered, fed and watered for a period of nine business days, excluding the day the dog is impounded
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to this Local Law and paying the impoundment fees as herein set forth:
 - 1. Impoundment fees shall be set from time to time by resolution of the Town Board.
 - 2. Dangerous dogs are subject to the impoundment fees established herein plus \$30 for each additional 24-hour period or part thereof.
- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (C) of this section whether or not such owner chooses to redeem his or her dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized. .
- F. No action shall be maintained against the Town of Sandy Creek, any dog control officer or constable when acting pursuant to his special duties, or any other agent or officer of the Town or person under contract to the Town of Sandy Creek to recover the possession or value of any dog, or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to this Local Law.

SECTION 9. APPEARANCE TICKET:

Any dog control officer when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of Sandy Creek observing, or having knowledge of, a violation of this Local Law shall issue and serve an appearance ticket for such violation.

SECTION 10. COMPLAINT:

- A. Any person who observes a dog in violation of this Local Law may file a complaint under oath with the dog control officer or constable specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog. The dog control officer or constable shall forward said complaint to the Town Justice.
- B. Upon receipt by the Town Justice of any such complaint, he or she shall summon the alleged owner to appear in person before him or her for a hearing, at which both the complainant and 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 may order:
 - 1. The dog be declared a vicious or dangerous dog to be restrained by collar and leash at all times whether on or off the owner's property.
 - 2. The dog may be confined to the premises of the owner.
 - 3. Such other remedy as may be warranted by the circumstances in such case.
 - 4. A violation of any order issued by the Town Justice under the provisions of this Section shall be offense punishable, upon conviction thereof, as provided in this Local Law.

SECTION 11. PENALTIES:

- A. Upon conviction, a violation for failure to license a dog shall be deemed an offense and shall be punishable by a fine not to exceed \$500.00 or imprisonment of not more than 15 days, or both.
- B. Upon conviction, a violation of any other provision of this Local Law shall be deemed an offense, and shall be punishable by a fine not to exceed \$500.00 or imprisonment of not more than 15 days, or both.

SECTION 12. SEPARABILITY:

Each separate provisions 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 13. REPEALER:

This Local Law shall supersede all prior Local Laws, ordinances, rules and regulations relative to the control of dogs within the Town of Sandy Creek, which shall be, upon the effectiveness of this Local Law, null and void.

SECTION 14. EFFECTIVE DATE:

This Local Law shall take effect upon filing with the New York State Secretary of State's Office.

(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 2010 of the (County)(City)(Town)(Village) of Sandy Creek was duly passed by the Town Board on March 9, 2011, in accordance *(Name of Legislative body)* 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20__. Such *(Elective Chief Executive Officer*)* 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20__. Such *(Elective Chief Executive Officer*)* local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provision 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 of 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
TAMMY MILLER, Town Clerk

(Seal)

Date: _____

(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 OSWEGO

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

Signature **ALLISON J. NELSON, ESQ.**

TOWN ATTORNEY
Title

County _____
City _____
Town _____ of Sandy Creek
Village _____
Date: _____