

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 SANTA CLARA

Local Law No. 1 of the year 2010

A local law providing for the licensing of dogs, and the regulation of the activities of dogs, in the Town
(Insert Title)
of Santa Clara, to be known as the "Dog Control Law of the Town of Santa Clara"

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

County City Town Village
(Select one.)

of SANTA CLARA as follows:

SECTION 1. LEGISLATIVE INTENT

The Town Board of the Town of Santa Clara, Franklin County, New York (the "Town") acknowledges that during 2010 the New York State Legislature revised Article 7 of the Agriculture and Markets Law such that effective January 1, 2011 the Town, and not the Department of Agriculture and Markets, will be responsible for the dog licensing functions that were previously the State's responsibility. The Town also acknowledges that the revised Article 7 allows it to make its own decisions concerning licensing fees, exemptions, enumeration fees, impoundment fees and penalties. It is the intent of this local law to provide for the licensing and identification of dogs; to determine a dog licensing fee schedule; and to set other fees and determine other matters in accordance with the revised Article 7.

In addition, the Town Board finds that the running at large and other uncontrolled behavior of dogs has caused, or has the potential to cause, physical harm to persons, damage to property and nuisances within the Town. A further purpose of this local law is to protect the health, safety and well-being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town, and to control and protect the Town's dog population and to protect persons, property, domestic animals and deer from dog attack and damage.

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the NYS Municipal Home Rule Law and the provisions of Article 7 of the NYS Agriculture and Markets Law as effective January 1, 2011.

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

SECTION 3. DEFINITIONS

(a) "Dog" means male and female, licensed and unlicensed, members of the species canis familiaris.

(b) "Dog control officer" means a person or persons appointed by the Town to assist in the enforcement of this local law or any other related laws or regulations, and shall include any authorized officer, agent or employee of an incorporated humane society under contract with the Town to assist in the enforcement of this local law or any other related laws or regulations.

(c) "Identification tag" means a tag issued by the Town upon the purchase of a dog license which sets forth an identification number for the dog for which the license is issued, together with the Town's name and contact information, including telephone number.

(d) "Owner" means any person who harbors or keeps any dog. In the event any dog found in violation of this law shall be owned by a person under eighteen (18) years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the household in which said person resides).

(e) "Owner of record" means the person in whose name a dog was last licensed.

(f) "Harbor" means to provide food or shelter to any dog.

(g) "At large" means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is: (i) accompanied by and under the immediate supervision and control of its owner or other responsible persons; (ii) a guide, police work, hearing, service, working search, detection or therapy dog as defined in Section 108 of the Agriculture and Markets Law or (iii) 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.

(h) "Town Clerk" means the Town Clerk of the Town of Santa Clara.

SECTION 4. RESTRICTIONS

It shall be unlawful for an owner of any dog to permit or allow such dog in the Town to:

(a) be at large;

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

(c) cause damage or destruction to property;

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

(e) bite, chase, jump upon or at, 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;

(f) 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;

(g) kill or injure any dog, cat or other household pet, or deer;

(h) be unlicensed when four (4) months of age or older;

(i) Fail to have a current and valid identification tag on its collar while at large;

(j) (1) 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.

(2) Any person who owns or has custody of any dog which has deposited its feces upon any public property, or upon the property of another, shall immediately remove such feces or cause the same to be removed, and shall dispose of them in a sanitary manner.

(3) The provisions of subsection (2) above shall not apply to the deposit by a dog of its feces on its owner's or custodian's own property, or upon the property of another with the express permission of the owner of such property; nor to any dog which serves as a guide dog while such dog is accompanying a blind person; nor to any police work, hearing, service, working search, detection or therapy dog as defined in Section 108 of the Agriculture and Markets Law.

SECTION 5. LICENSING OF DOGS; FEES

(a) All dogs within the Town of Santa Clara four (4) months of age or older shall be licensed, unless otherwise exempted. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk a dog license application together with the license application fee, and any applicable license surcharges. 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. Each license issued shall be valid for a period of one year, shall not be transferable and will expire at the end of the month one year from the date of issue. Each person to whom a dog license is issued shall place and keep on the dog for which the license is issued a collar to which shall be securely attached a valid identification tag for that dog, in accordance with the requirements of Article 7 of the NYS Agriculture and Markets Law.

(b) The Town will not issue purebred dog licenses.

(c) Application Form:

(i) Each person applying for a dog license or license renewal shall use the application form prescribed by the Town Clerk, which application shall state the following minimum information:

- 1) The name, residence and telephone number of each owner;
- 2) The name, sex, actual or approximate age, breed, color, markings and other identifying details of the dog;
- 3) A statement of whether the dog has been spayed or neutered; and
- 4) Such other information and documentation deemed necessary by the Town Clerk to effectuate the purposes of Article 7 of the NYS Agriculture and Markets Law.

(ii) In the case of a dog which has been spayed or neutered, the application shall be accompanied by a certificate signed by a licensed veterinarian, or a sworn affidavit signed by the owner in a form acceptable to the Town Clerk, showing that the dog has been spayed or neutered, except that such certificate shall not be required if the same is already on file with the Town Clerk.

(d) Fees:

(i) The fee for a dog license issued pursuant to this local law for dogs that are spayed or neutered shall be \$10.00.

(ii) The fee for a dog license issued pursuant to this local law for dogs that are **not** spayed or neutered shall be \$20.00.

(iii) Surcharge required by Agriculture and Markets Law Section 110 (3): Included in the license fees established by subsections (i) and (ii) above are surcharges of \$1.00 if the dog to be licensed is spayed or neutered and \$3.00 if the dog to be licensed is not spayed or neutered, to be remitted by the Town to the NYS Department of Agriculture and Markets for the purpose of carrying out animal population control efforts.

(iv) The fees set forth in subsections (i) and (ii) above may be reviewed by the Town Board periodically and may be changed by resolution of the Town Board without the necessity for a public hearing.

(v) Exceptions: No fee shall be charged for a dog license for any guide, police work, hearing, service, working search, detection or therapy dog as defined in Section 108 of the Agriculture and Markets Law.

(e) Change of ownership; lost or stolen dog; death:

(i) Change in owner or address. In the event of a change in ownership of any dog which has been issued a license by the Town Clerk, or in the event of a 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.

(ii) 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.

(iii) 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 upon receipt of a renewal notice from the Town Clerk, if the owner has not previously notified the Town Clerk.

SECTION 6. SEIZURE, IMPOUNDMENT, REDEMPTION AND ADOPTION

(a) Any dog found to be in violation of the provisions of Section 4 of this local law may be seized by any dog control officer, peace officer (acting pursuant to his special duties) or police officer, pursuant to the provisions of Section 117 of the Agriculture and Markets Law. In addition, such dog control officer, peace officer acting pursuant to his special duties or police officer shall seize;

(i) any unlicensed dog whether on or off the owner's premises;

(ii) any dog which is not wearing an identification tag and which is not on the owner's premises; and

(iii) 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 dangerous; and

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

(b) 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.

(c) 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 in subsection (f) below.

(d) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subsection (f) below whether or not such owner chooses to redeem his or her dog.

(e) Any dog unredeemed at the end 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, at the expense of the owner.

(f) The owner of any dog impounded by the Town shall be entitled to redeem that dog within five (5) business days, excluding the day the dog is impounded, from the day the dog is impounded, provided that the owner produces proof that the dog is licensed and identified and further provided that the owner pays the following impoundment fees:

(i) not less than \$10.00 for the first impoundment of any dog owned by that person;

(ii) not less than \$20.00 for the first 24 hours or part thereof and \$3.00 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; or

(iii) not less than \$30.00 for the first 24 hours or part thereof and \$3.00 for each additional 24 hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

SECTION 7. COMPLAINTS

Any person who observes a dog which is in violation of this law may file a complaint with the dog control officer of the Town, or with the entity with which the Town has contracted for dog control officer services, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence address, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this law.

SECTION 8. ENFORCEMENT

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

(b) Pursuant to the provisions of Agriculture and Markets Law Section 118 (2), a violation of this local law may be prosecuted as either a violation under the Penal Law or as an action to recover a civil penalty.

SECTION 9. APPEARANCE TICKETS

Any dog control officer, peace officer (when acting pursuant to his or her special duties) or police officer, having reasonable cause to believe that a person has violated this law, shall issue and serve upon such person an appearance ticket for such violation; or in lieu thereof, a uniform appearance ticket; or in lieu thereof, a uniform appearance ticket and simplified information, as provided in Section 113 of the Agriculture and Markets Law. Any dog control officer, peace officer (when acting pursuant to his or her special duties) or police officer shall have all of the powers and authority granted to them by Article 7 of the Agriculture and Markets

Law related to any proceeding, whether criminal or civil in nature, undertaken in accordance with the provisions of said Article 7 or of this local law.

SECTION 10. PENALTIES

In accordance with Agriculture and Markets Law Section 118 (2), a person convicted of a violation of this law (or where the person has been prosecuted through an action to recover a civil penalty) shall be liable to a penalty of a fine of:

- (a) not less than \$25.00 for a first violation;
- (b) not less than \$50.00 for a second violation within the previous five (5) years; and
- (c) not less than \$100.00 or, in cases of Penal Law prosecution, imprisonment for not more than fifteen days, or both, for a third and each subsequent violation within the previous five years.

SECTION 11. SEPARABILITY

Each separate provision of this law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions shall remain valid and enforceable.

SECTION 12. REPEALER

Local Law 1 of the year 2007 of the Town of Santa Clara, "A local law pursuant to Agriculture and Markets Law Article 7, Section 124 regulating and controlling the activities of dogs in the Town of Santa Clara," is hereby repealed.

SECTION 13. EFFECTIVE DATE

This local law shall take effect upon the filing thereof with the New York State Department 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. 1 of 2010 of the ~~(County)(City)(Town)(Village)~~ of Santa Clara was duly passed by the Town Board on December 9, 2010, 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) *(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____. *(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) *(Name of Legislative Body)* (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

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

(Seal)

Date: December 9, 2010

(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.

James Maher
Signature James E. Maher
Town Attorney
Title

County
City of Santa Clara
Town
Village

Date: December 13, 2010