

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 Lincoln
Town
Village

FILED
STATE RECORDS

DEC 31 2010

DEPARTMENT OF STATE

Local Law No. 1 of the year 2010

A local law requiring the licensing of dogs pursuant to Article 7 of the Agriculture and Markets Law
(Insert Title)

Be it enacted by the Town Board of the

County
City
of Lincoln as follows:
Town
Village

Article I. Purpose.

The purpose of this local law is to provide for the identification and licensing of dogs, so as to aid in the control and protection of the dog population and the protection of persons, property and domestic animals within the Town of Lincoln.

Article II. Application

This local law shall apply to all areas of the Town of Lincoln and, except to the extent otherwise specifically provided herein, to all dogs kept or harbored within the Town of Lincoln.

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

Article III. Definitions

- 1) “Adoption” means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.
- 2) “Clerk” means the town clerk of the Town of Lincoln.
- 3) “Dog” means any member of the species *canis familiaris*.
- 4) “Dog Control Officer” means any individual appointed by the Town Board of the Town of Lincoln to assist in the enforcement of this local law and/or Article 7 of the New York State Agriculture and Markets Law, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town of Lincoln to assist in the enforcement of this local law.
- 5) “Guide Dog” means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.
- 6) “Harbor” means to provide food and/or shelter to any dog.
- 7) “Identification tag” means a tag issued by the Town of Lincoln which sets forth an official identification number, together with the words “Town of Lincoln” and “State of New York”, the telephone number for the Town Clerk of the Town of Lincoln, and any other information as may be required by the provisions of this local law.
- 8) “Identified dog” means any dog carrying an identification tag as provided in this local law.
- 9) “Official identification number” means a series or combination of letters, numbers and/or symbols approved and furnished by the Town of Lincoln.
- 10) “Owner” means any person who keeps or harbors any dog.

- 11) "Owner of record" means the person in whose name any dog was last licensed pursuant to this local law and/or Article 7 of the New York State Agriculture and Markets Law, except that if any license is issued upon application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.
- 12) "Person" means any individual, corporation, partnership, association or other organized group of persons, or other legal entity.
- 13) "Police work dog" means 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.
- 14) "Recognized registry association" means any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the Commissioner of Agriculture and Markets.
- 15) "War dog" means any dog which has been honorably discharged from the United States armed services.
- 16) "Hearing dog" means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.
- 17) "Service dog" means any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.
- 18) "Person with a disability" means any person with a disability as that term is defined in subdivision twenty-one of section two hundred ninety-two of the NYS Executive Law.
- 19) "Working search dog" means any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the Department of Agriculture and Markets; provided, however, that such services provided by said dog shall be performed without charge or fee.

- 20) "Therapy dog" means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.
- 21) "Detection dog" means any dog that is trained and is actually used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband, or any dog undergoing training for such purposes.

Article IV. Licensing of dogs; rabies vaccination requirement.

Section 4.01 Licensing of dogs

- (a) Except as otherwise specifically provided in this local law or in Article 7 of the NYS Agriculture and Markets Law, all dogs at large, and all dogs four months of age or older shall be licensed in accordance with the provisions of this local law.
- (b) All applications for dog licenses, both original applications and renewal applications, shall be made to the Lincoln Town Clerk.
- (c) The application shall state the sex, actual or approximate age, breed, color, and official identification number of the dog, and other identification marks, if any, and the name, address and telephone number of the owner.

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- (d) The application shall be accompanied by the license application fee, any applicable license surcharges, and any such additional fees as may be established from time to time by resolution of the Lincoln Town Board. Each license application shall be accompanied by a current certificate of rabies vaccination or a statement from a licensed veterinarian in lieu thereof that such vaccination would endanger the dog's life. 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 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 as set forth in this local law.
- (e) Upon validation by the Town Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made of the fees paid therefore, or any portion thereof.
- (f) The Town Clerk shall provide an identification tag and a copy of the license to the owner, and retain the license and all documentation supporting the issuance of the license in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration. If the application for a dog license (or renewal) is made by mail and the owner requests a validated copy, the owner shall provide a stamped, self-addressed envelope for that purpose.
- (g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.
- (h) Each initial license issued by the Town of Lincoln pursuant to this local law shall expire on the last day of the month one year from the date of the original issuance of the license. Each renewal license shall expire on the last day of the same month in each succeeding calendar year. (For example, a license originally issued in January will always expire on January 31st of each succeeding calendar year, regardless of the actual

date the license is renewed with the Town Clerk – renewing early or late does not change the date of expiration of the license.)

- (i) Owners of more than one dog may request a common renewal date for their dog licenses, which may be granted by the Town Clerk as long as no license is extended beyond the period of validity that would otherwise apply under the provisions of the prior paragraph (h), (i.e., the license may be issued for less than a year, but not for more than a year.) No license fees or surcharges shall be prorated upon the granting of a request for a common renewal date pursuant to the provisions of this paragraph.

Section 4.02 Relocation / Relicensing

- (a) The owner of any dog currently licensed in another municipality who relocates his place of residence to the Town of Lincoln shall apply for and obtain a Town of Lincoln dog license for each dog owned. Owners of dogs licensed in another jurisdiction shall not be required to obtain a Town of Lincoln license during periods of temporary residence within the Town.
- (b) Any dog adopted from an incorporated humane society or similar incorporated dog protective association must be licensed in the Town of Lincoln prior to being released from said shelter.

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Article V. License Fees

Section 5.01

A fee schedule for all license fees and other fees to be charged and collected pursuant to this local law shall be established by resolution of the Lincoln Town Board. Such fee schedule may thereafter be amended from time to time by further resolution of the Town Board. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected prior to the issuance of the license for which the fees are due.

Section 5.02

All fees established by the Town Board shall be in accordance with the following limitations:

(a) The application fee for an unspayed or unneutered dog shall be at least five dollars more than the application fee for a spayed or neutered dog.

(b) A surcharge fee in an amount not less than one dollar for spayed and neutered dogs, and not less than three dollars for unspayed or unneutered dogs, for the purpose of supporting animal population control efforts.

(c) A surcharge fee in an amount not less than five dollars shall be imposed upon a dog license for a dog identified as unlicensed during an enumeration conducted pursuant to Article 7 of the NYS Agriculture and Markets Law.

Section 5.03

There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each license for any such dog shall be conspicuously marked by the clerk, "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as applicable.

Article VI. Disposition of license fees and fines.

Except as otherwise provided in Article 7 of the NYS Agriculture and Markets Law, and or under any other provision of this local law, all fees, fines and/or penalties collected upon the application for a license and/or the prosecution of any violation of this local law shall be the property of the Town of Lincoln.

Article VII. Identification of dogs

Section 7.01

Each dog licensed pursuant this local law shall be assigned, at the time the dog is first licensed, a permanent official identification number. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.

Section 7.02

At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Should an official Town of Lincoln dog tag be lost, a new tag will be issued upon payment of the fee prescribed by resolution of the Town Board.

Section 7.03

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

Section 7.04

The size, shape and form of imprints on identification tags shall be prescribed by the Town Clerk, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this local law.

Article VIII. Change of ownership; lost or stolen dog

Section 8.01

In the event of a change in the ownership of any dog which has been assigned an official Town of Lincoln identification number or change in the address of the owner of record any such dog, the owner of record shall, within ten days of such change, file with the Town Clerk a written report of such change. Such owner of record shall be liable for a violation of this local law until such filing is made, or until the dog is licensed in the name of the new owner.

Section 8.02

If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, file with the Town Clerk, a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this local law, and/or of any violation of Article 7 of the New York State Agriculture and Markets Law committed after such report is filed.

Section 8.03

In the case of a dog's death, the owner of record shall so notify the Town Clerk, in writing, either prior to renewal of licensure or upon the time of such renewal as set forth in this local law. Failure to notify the Town Clerk of the death of a dog as so required herein shall constitute a violation and the owner of record shall be liable for such violation.

Article IX. Violations

Section 9.01

It shall be a violation, punishable as provided in section 9.02 of this local law, for;

- (a) Any owner to fail to license any dog;
- (b) Any owner to fail to have any dog identified as required by this local law;
- (c) Any person to knowingly affix to any dog any false or improper identification tag;
- (d) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose required pursuant to this local law and/or Article 7 of the New York State Agriculture and Markets Law ;
- (e) Any person to furnish any false or misleading information on any form required to be filed with the Town of Lincoln pursuant to this local law and/or Article 7 of the New York State Agriculture and Markets Law;
- (f) The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog.
- (g) The owner of a dog to fail to notify the Town Clerk of any change of ownership or owner's address as required by this local law.

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Section 9.02

It shall be the duty of the dog control officer of the Town of Lincoln, with the assistance of the attorney for the Town, to prosecute an action or proceeding against any person who has committed within the Town of Lincoln any violation of this local law and/or Article 7 of the New York State Agriculture and Markets Law. The dog control officer may elect either to prosecute such action as a violation under the penal law or as a civil action to recover a civil penalty. A violation of this section shall be punishable, subject to such an election, either:

- (a) By a fine or penalty of not less than twenty-five dollars, and not more than two hundred fifty dollars, except that
 - (i) Where the person was found to have violated this section and/or Article 7 of the New York State Agriculture and Markets Law within the preceding five years, the fine or penalty may be not less than fifty dollars, and
 - (ii) Where the person was found to have committed two or more such violations within the preceding five years, the subsequent violation shall be punishable by a fine or penalty of not less than one hundred dollars or imprisonment for not more than fifteen days, or both.
- (b) A defendant charged with a violation of any provision of this local law may plead guilty to the charge in open court. He may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by mail, a statement:
 - (i) That he waives arraignment in open court and the aid of counsel,
 - (ii) That he pleads guilty to the offense charged,
 - (iii) That he elects and requests that the charge be disposed of and the fine or penalty fixed by the court,
 - (iv) Of any explanation that he desires to make concerning the offense charged, and

- (v) That he makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement, the magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.
- (c) Each day that a person is in violation of any provision of this local law shall constitute a separate offense, with each such offense being subject to the fines and penalties set forth herein.

Article X. Separability

If any section, paragraph, subdivision, clause, phrase or provision of this local law shall be adjudicated to be unlawful, invalid or unconstitutional, it shall not affect the validity or applicability of this local law as a whole, or any part or provision thereof other than the part so adjudicated to be unlawful, invalid or unconstitutional.

Article XI. Repealer

This local law shall supersede all prior local laws, ordinances, resolutions, rules and/or regulations of the Town of Lincoln pertaining to the subject matter of this local law, and all provisions of such prior local laws, ordinances, resolutions, rules and/or regulations of the Town of Lincoln that are inconsistent with the provisions of this local law are hereby repealed.

Article XII. Effective Date

This local law shall take effect January 1, 2011, and shall apply to all dog licenses issued in the Town of Lincoln on and after January 1, 2011.

**(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 Lincoln was duly passed by the
Town Board on December 29, 2010, in accordance with the applicable
(Name of Legislative Body)
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____.
(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 elector 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____.
(Elective Chief Executive Officer*)
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 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 such 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

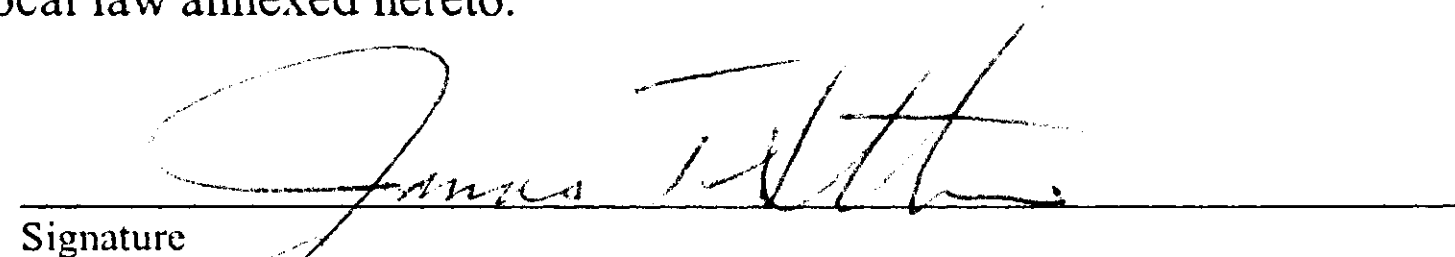
(Seal)

Date: December 29, 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 MADISON

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

Attorney for the Town
Title

County _____
City _____
of Lincoln
Town _____
Village _____

Date: 12-29-10