

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 Davenport

Local Law No. 1 of the year 2021

A local law entitled Animal Control Law of the Town of Davenport
(Insert Title)

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

County City Town Village
(Select one.)

of Davenport as follows:

Section 1. Purpose.

The Town Board of the Town of Davenport finds that licensed and unlicensed dogs running at large and exhibiting other uncontrolled behavior have caused physical harm to persons, damage to property and have created nuisances within the Town of Davenport. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running of at large dogs within the Town of Davenport, to provide for the care and disposition of abandoned, lost, strayed, homeless or unwanted animals and to establish fees for the issuance of dog licenses that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Davenport.

Section 2. Authority.

This article is enacted pursuant to the provisions of Article 7, Chapter 59; Part T of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York. In the event of any conflict between the New York State Agriculture and Markets Law and this article, the provisions of the New York State Agriculture and Markets Law shall take precedence. This article may, pursuant to the New York State Agriculture and Markets Law and § 10 of the New York State Municipal Home Rule Law, be more stringent than the standards set forth in the New York State Agriculture and Markets Law, and supersede the Agriculture and Markets Law to the extent such Agriculture and Markets Law is silent upon any matter herein regulated, stated, or required.

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

Section 3. Title.

The title of this article shall be the "Animal Control Law of the Town of Davenport."

Section 4. Definition of terms.

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

ANIMAL CONTROL OFFICER — A person or persons appointed by the Town of Davenport for the purpose of enforcing this article or Article 7 of the Agriculture and Markets Law.

DOG — Male and female, licensed and unlicensed, members of the species canis familiaris.

FECAL MATTER — All feces, excrement, manure, dung or solid waste matter discharged by a dog.

HARBOR — To provide food or shelter to any dog.

IDENTIFICATION TAG — A tag issued by the Town of Davenport which sets forth an identification number, the names of the Town of Davenport and the State of New York, contact information, including the telephone number, for the Town of Davenport and any other information deemed appropriate by the Town of Davenport.

OWNER — The person or persons entitled to claim lawful custody and possession of a dog who is responsible for purchasing the license for such dog unless the dog is or has been lost, and such loss was promptly reported to an Animal Control Officer and a reasonable search has been made. If a dog is not licensed, the term "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 dog which is kept, brought or comes within the Town of Davenport. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be deemed to be the owner of such dog for purposes of this article. In the event that the "owner" of any dog found to be in violation of this article shall be under 18 years of age, the 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 in violation of this article.

POLICE OFFICER — Any police officer having jurisdiction within the Town of Davenport.

RUN AT LARGE — To be in a public place or on private land without the knowledge, consent, and approval of the owner of such lands.

TOWN — The Town of Davenport.

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. Any dog that is not on private land with the knowledge, consent and approval of the owner of such lands must be under the full control of such owner or person. For the purpose of this section, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner. No such owner shall permit or allow such dog to attack, chase, harass, molest, worry, injure or kill any dogs, cats or other household pets, deer, cattle, horses, poultry or other livestock.
- 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 that lasts continually for a period of 10 minutes or intermittently for a period of 30 minutes.
- C. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner thereof.
- D. Chase, jump upon or at or otherwise harass any person in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm.
- 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. Deposit any fecal matter on any Town public roadway, gutter, sidewalk, public park or other public area, or private property without the consent of the landowner, unless such fecal matter is immediately removed from the property by gathering said fecal matter in a suitable container and disposing of it in a safe and sanitary manner. The provisions of this Subsection shall not apply to any individual who requires the use of a Seeing Eye dog, or any disabled persons who, because of their disability, cannot adhere to its requirements.

Section 6. Conditions for keeping dogs.

All premises occupied or used by dogs shall be kept in a clean, safe and sanitary condition. Failure to provide adequate food, water or space shall subject dogs to seizure and confinement. For purposes of this section, "premises" shall include any motor vehicle occupied by a dog, and "adequate" shall mean sufficient for age, size and number of dogs on the premises. Failure to provide adequate food, water or shelter shall subject the owners or harborers of dogs to the enforcement provisions of Article 26 of the New York State Agriculture and Markets Law.

Section 7. Licensing of dogs.

- A. License required. All dogs in the Town must be licensed with the Town Clerk by the age of four months in a form prescribed by the Town Clerk and are required to present a current certificate of rabies at the time of licensing or the renewal of an existing license showing that the dog has been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of old age or other reason, the life of the dog would be endangered by the administration of the vaccine.
- B. Expiration of license. 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.
- C. Fees for licensing of dogs. The fee for a spayed or neutered dog and the fee for an unspayed or unneutered dog shall be as set forth on a fee schedule maintained by the Town Clerk, which fees shall include the New York State surcharge for the purpose of carrying out animal population control. Such fees are subject to being reviewed by the Town Board periodically and may be changed by a resolution of the Town Board, if deemed necessary.
- D. Enumeration fee. If the Town Board determines the need for dog enumeration, such a fee, as set forth on a fee schedule maintained by the Town Clerk, will be assessed to all dogs found unlicensed or renewed at the time the enumeration is conducted.
- E. Purebred license. The Town will not issue purebred or kennel licenses. All dogs shall be licensed individually as per the fee system stated above.
- F. Animal shelter. Any dog seized or impounded at the Town animal shelter may also be licensed and issued an identification tag by the Town animal shelter.
- G. Purchase, renewal of license. All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing

a license by mail, the appropriate fee must accompany the forms.

- H. Failure to license. The local penalty for failure to license a dog shall not exceed \$50.
- I. Fees nonrefundable. There will be no refund of fees.
- J. Notification requirement. The owner of any licensed dog shall notify the Town Clerk:
 - (1) Of any change of ownership or in the address of the owner within 10 days of such change;
 - (2) If the dog is lost or stolen within 10 days of such loss or theft; and/or
 - (3) Of the dog's death prior to or at the time of its scheduled license renewal.
- K. Exemptions.
 - (1) Any dog harbored within the Town which is owned by a resident of New York City and licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall, for a period of 30 days, be exempt from the licensing and identification provisions of this article.
 - (2) No license is required for a dog confined to a public or private hospital devoted solely to the treatment of sick animals, or confined for the purpose of research by any college or other educational or research institution.
 - (3) No license is required for dogs confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a Class A dealer under the Federal Laboratory Animal Welfare Act.

Section 8. Adoption of dogs; fees.

- A. Any dog impounded and made available for adoption under the provisions of § 118 of the Agriculture and Markets Law, and any other animal seized under the provisions of this article and not redeemed in accordance with the provisions for redemption of dogs under § 118 of the Agriculture and Markets Law, may be released from custody for adoption upon payment to the Town Clerk or Town animal shelter of a fee as set forth on a fee schedule maintained by the Town Clerk and upon entering into a written agreement with the Town which includes the following terms and conditions:

- (1) That the dog has been spayed or neutered as evidenced by a certificate signed by a licensed veterinarian or an affidavit signed by the owner showing that the dog has been spayed or neutered, unless such certificate or affidavit is already on file with the Town Clerk or Animal Control Officer. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that such veterinarian 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; or
 - (2) That the person intending to adopt a dog which has not yet reached sexual maturity has executed a written agreement with the Town, or its designee, to have the dog spayed or neutered within 30 days of the dog reaching six months of age as set forth in the written agreement.
- B. For purposes of this section, the age of the animal at the time of adoption shall be determined by the Town animal shelter or Animal Control Officer that releases the animal for adoption, and such age shall be clearly written on the agreement by the Town, or its designee, prior to the agreement being executed by the person adopting the animal.
- C. The revenues from such adoption fees shall be used only for administering and enforcing this article and for the controlling of dogs and enforcing the provisions of Article 7 of the New York State Agricultural Law.

Section 9. Procedure for seizure of dogs.

- A. This article shall be enforced by the Animal Control Officers and police officers, and such officers shall have all of the powers conferred upon Animal Control Officers by Article 7 of the Agriculture and Markets Law of the State of New York.
- B. The Animal Control Officers or any police officer may seize:
- (1) Any unlicensed dog whether on or off the owner's premises;
 - (2) Any dog not wearing an identification tag and which is not on the owner's premises, and
 - (3) Any dog found in violation of this article. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law.
- C. The Animal Control Officer or police officer observing a violation of this article in his or her presence may issue and serve an appearance

ticket for such violation.

- D. Any person who observes a dog in violation of this article may file a written complaint under oath with a police officer, Animal Control Officer, or Justice of the Town, 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 this article. Upon receipt of a written, signed complaint, the Animal Control Officer shall notify the owner or harbinger of the dog, by letter by certified mail or in person, of the objectionable conduct. Failure to accept such letter by the owner or harbinger of the dog does not invalidate the notification.
- E. Upon reasonable belief by the Animal Control Officer that there has been a violation of this article or Article 7 of the Agriculture and Markets Law of the State of New York, such Animal Control Officer shall issue an appearance ticket requiring the owner or harbinger of the dog to appear before a Town Justice.
- F. No person shall hinder, resist or oppose any Animal Control Officer or police officer authorized to administer or enforce the provisions of this article in the performance of such officer's duties under this article.
- G. A daily boarding fee and a fee for seizure and impoundment of dogs in violation of this article or the laws of the New York State Department of Agriculture and Markets Law are as set forth on a fee schedule maintained by the Town Clerk.
- H. Upon request or instruction from a police officer, the Animal Control Officer may seize any animal found abandoned or not properly cared for or lost, strayed, homeless or unwanted and cause the same to be examined by a licensed veterinary surgeon and destroyed pursuant to the provisions of § 374 of the Agriculture and Markets Law, or treated if such animal is found upon such examination to be not so maimed, diseased, disabled or infirm as to be unfit for any useful purpose; provided, however, that the Town shall not be liable for any fees or expenses incurred in connection with any repair or treatment of such animal by such veterinary surgeon unless such repair or treatment shall be approved and authorized by the Chief Fiscal Officer of the Town. In addition to this, the owner of any dog that is destroyed under the provisions of this article, whether destroyed by an Animal Control Officer or police officer or released to an authorized humane society or veterinarian, shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

Section 10. Penalties for offenses.

Any person convicted of a violation of this article shall be deemed to have committed a violation and shall be subject to a civil penalty not to exceed \$250. The penalties herein provided shall be in addition to those prescribed in § 119 of the Agriculture and Markets Law.

(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 2021 of the (County)(City)(Town)(Village) of Davenport was duly passed by the Town Board on December 15 2020, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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____.
(Name of Legislative Body)
(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) (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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 _____ above.

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

Date: _____

(Seal)