

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 ORLEANS

Local Law No. 3 of the year 20 17

A local law FOR DOG CONTROL LAW OF THE COUNTY OF ORLEANS
(Insert Title)

Be it enacted by the ORLEANS COUNTY LEGISLATURE of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of ORLEANS as follows:

Section 1. Title.

The title of this article shall be "Dog Control Law of the County of Orleans."

Section 2. Authority.

This article is enacted pursuant to Article 7 of the Agriculture and Markets Law of the State of New York, together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated herein except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply, and enforcement of this article is intended by application of the Penal Law.

Section 3. Purpose.

The purpose of this article is to protect the health, safety and well-being of persons, property, wildlife, and dogs by imposing restrictions on the keeping and running at large of dogs within the County. This article is being enacted because the running at large and other uncontrolled behavior of dogs has caused physical harm to persons and damage to property and created a nuisance within the County.

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

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SECRETARY OF STATE

SECTION 4. Definitions.

All terms defined in § 108 of the Agriculture and Markets Law shall have the same meaning as used herein unless specifically modified. For the purposes of this article, the terms as hereinafter used are defined as follows:

AGRICULTURE AND MARKETS LAW

The Agriculture and Markets Law of the State of New York in effect during the life of this article.

CONFINED

A dog is securely confined or restrained when it is 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 so arranged that the animal cannot reach or endanger any person on 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, on a tether or in another container or so restrained within an enclosed vehicle in a safe manner consistent with the dog's good health so that it cannot be expected to escape therefrom. (See Agriculture and Markets Law §§ 353 and 356, cruelty to animals.)

COUNTY

Any area within the boundary lines of the County of Orleans, excluding the incorporated Villages situate in the County.

COUNTY DOG CONTROL OFFICER

Any person authorized, by the Sheriff of the County of Orleans, directed or permitted to enforce the provisions of this article or the provisions of the Agriculture and Markets Law.

DANGEROUS DOG

In addition to the definitions of a dangerous dog under the provisions of § 108(24) of the Agriculture and Markets Law of the State of New York, a dog shall be considered a dangerous dog, subject to the provisions of this article and of § 123(3) of the Agriculture and Market Law, if such dog, without justification or provocation, attacks a person or domestic animal or causes physical injury or death to such animal.

DOG

Male and female, licensed or unlicensed, members of the species *Canis familiaris*.

DOG OWNER

A. The person, persons, firm, association or corporation who or which:

- (1) Purchased the license for the dog and is the registered owner;
- (2) Professes ownership of the dog;
- (3) Has custody or control of the dog;
- (4) Harbors or is otherwise responsible for the dog;
- (5) Is the parent, guardian or head of household of any minor under 18 years of age who owns or harbors the dog; or
- (6) Brings into or permits the dog to come into the County.

B. For proof purposes, any person harboring, possessing or controlling a dog for a period of one week prior to the filing of any complaint charging a violation of this article or the Agriculture and Markets Law

shall be held and deemed to be the owner of such dog for the purposes of this article. Parents, guardians or heads of household, as mentioned above, shall be deemed to have custody and control of dogs owned or harbored by minors and shall be responsible for compliance with this article and the Agriculture and Markets Law in the County.

RECREATIONAL AREA

Any real property owned by a Town, the County or the State of New York located in the County which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE

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 running at large if it is: accompanied by and under the immediate supervision and control of the owner or other responsible person; or a service dog; or 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 owner's written permission.

SECTION 5. Dog Control Officer.

The Sheriff of the County of Orleans may, by resolution of the Orleans County Legislature, maintain the appointment of one or more Dog Control Officers as permitted by § 113 of the Agriculture and Markets Law, setting compensation therein. Such officer shall have authority as set forth in Subdivision 4 of § 113 of the Agriculture and Markets Law and shall be responsible for enforcing the Agriculture and Markets Law and this Local Law. A County Dog Control Officer is hereby authorized to issue an appearance ticket pursuant to § 150.20 of the Criminal Procedure Law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this article as specified in Subdivision 4 of § 113 and Subdivision 2(c) of § 124 of the Agriculture and Markets Law. A County Dog Control Officer shall maintain all reports required by Article 7 of the Agriculture and Markets Law, specifically Subdivisions 5 and 6 of § 113.

SECTION 6. Night quarantine.

The County reaffirms and readopts the same night quarantine of dogs invoked by the Orleans County Legislature on March 19, 1981, in Resolution No. 127, which resolution requires that all dogs within the County shall be securely confined by dog owners (see section 7, subdivision B for exception) between sunset and one hour after sunrise. Violations of this quarantine shall be punishable in accordance with the Agriculture and Markets Law and this article, and dogs may be seized or destroyed as authorized by Agriculture and Markets Law § 123.

SECTION 7. Restrictions.

A. It shall be unlawful for any dog owner in the County to permit or allow a dog to:

- (1) Attack, chase or otherwise harass any person, other dog, cat or domesticated animal while such person, dog, cat or domesticated animal is in a place where it may be lawfully.
- (2) Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably or habitually disturb the comfort or repose of any persons other than the owner of such dogs.
- (3) Uproot, dig into, upset or otherwise damage any vegetables, lawns, flowers, garden beds, garbage

containers or other property not belonging to the owner of such dog.

- (4) 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 except when such person may be on the owner's private property without said owner's consent.
 - (5) Habitually chase, run alongside or bark at motor vehicles, cyclists and/or pedestrians while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog.
 - (6) Create a nuisance by defecating, urinating or digging on public or private property other than the property of said owner.
 - (7) Allow a female dog to be off the owner's premises when in heat except when transporting such dog to a veterinarian's office or when involved in a formalized, controlled breeding program.
 - (8) Run at large (see the definition of "run at large" in section 4) 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. The use of an electronic training collar may be considered to be in the control by owner. A dog controlled by wireless containment systems or electronic collar does not release an owner of responsible restraint of said animal. For the purposes of this article, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.
 - (9) To be at large if determined to be a dangerous dog within the meaning of the definition in section 4 of this article.
- B. Establishment of the fact or facts that a dog has committed any of the acts prohibited by this article shall be presumptive evidence against the dog owner that he/she has failed to properly confine, leash or control his/her dog.

SECTION 8. Seizure of dogs.

- A. The County Dog Control Officers and/or police officers may seize any dog found:
- (1) Not to be identified and not on the owner's property, or not to be licensed whether on the owner's property or not (see Agriculture and Markets Law § 117); or
 - (2) Running at large in violation of the above quarantine or restrictions.
- B. To effect seizure, officers may only use such degree of force as shall be necessary to gain control over the dog without intentionally injuring or harming the dog, and such dog shall be impounded and disposed of pursuant to § 117 of the Agriculture and Markets Law. Officers are not authorized hereby to enter a building in order to seize a dog without permission of the building owner. When permission is not given and probable cause exists to believe that a dog is in the building and is in violation of the Agriculture and Markets Law or this article, then an officer can proceed before a court of law to obtain a warrant to enter the building to seize the dog by application of Criminal Procedure Law Article 690. The County Dog Control Officer will maintain records of seized, impounded, forfeited and adopted dogs as required by § 117 of the Agriculture and Markets Law and by the Orleans County Animal Shelter.

- C. The seizure of any dog shall not relieve any owner from any violation provided for by the Agriculture and Markets Law and this article.
- D. No liability for damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog seized pursuant to this article on the part of the Dog Control Officers or police officers. (See Agriculture and Markets Law § 117, Subdivision 11.)

SECTION 9. Holding periods and impoundment fees.

Following seizure of a dog pursuant to this article it shall be impounded pursuant to § 117 of Agriculture and Markets Law, and the fees will be as set forth by the County from time to time. Impoundment fees shall be paid to the County of Orleans.

SECTION 10. Forfeiture, adoption and euthanization.

All dogs seized pursuant to this article will be subject to forfeiture, adoption and euthanization as set forth in § 117 of the Agriculture and Markets Law and the County Animal Shelter rules and regulations. The County hereby encourages that all dogs adopted following seizure pursuant to this article be spayed or neutered before or after release from the impoundment as the County Animal Shelter might require. (See § 117, Subdivision 7 of the Agriculture and Markets Law.)

SECTION 11. Enforcement.

This article may be enforced by either a County Dog Control Officer, town or state Dog Control Officers and/or police officers.

SECTION 12. Penalties for offenses.

- A. It shall be a violation, punishable as provided in § 118 of the Agriculture and Markets Law, for any dog owner to violate any of the restrictions listed in the Local Law.
- B. Upon a violation of this article, a County Dog Control Officer, town and state Dog Control Officers and/or police officers may proceed in accordance with § 118 of the Agriculture and Markets Law.
- C. Violations of this article may be prosecuted either (1) to prosecute such action as a violation under the penal law or (2) to commence an action to recover a civil penalty.
- D. Fines and penalties for any violation of this article will be in an amounts either:
 - (1) Where prosecuted pursuant to the Penal Law, by a fine of not less than \$50.00, except that (i) where the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five years, the fine may not be less than \$100.00 and where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable of not less than \$200.00 or imprisonment for not more than 15 days, or both; or
 - (2) Where undertaken as an action to recover a civil penalty, by a civil penalty of not less than \$50.00, except that when the person was found to have violated this article or Article 7 of the Agriculture and Markets Law within the preceding five years, the civil penalty may be not less than \$100.00 and where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than \$200.00.

- E. A County Dog Control Officer may serve appearance tickets personally upon violating dog owners as required by law.

SECTION 13. Dangerous Dogs.

Dogs believed to be dangerous to human beings or domesticated or protected animals will be proceeded against pursuant to § 123 of the Agriculture and Markets Law.

SECTION 14. Disposition of fines, penalties and/or bail.

All money collected by a Town Court as a fine, penalty and/or bail forfeiture pursuant to this article or Article 7 of the Agriculture and Markets Law shall become the property of the Town in which the enforcement proceeding was prosecuted. Any prosecution under this Local Law shall be the responsibility of a Town's designated attorney.

SECTION 15. Complaints.

- A. Any person who observes a dog in violation of this article may file a complaint with a County Dog Control Officer, town or state Dog Control Officers and/or police officers specifying the nature of the violation, the date thereof, a description of the dog and the name and address, if known, of the owner of the dog.
- B. Upon receipt by a County Dog Control Officer, town or state Dog Control Officers and/or police officers of any such complaint, they may investigate said complaint or they may summon the alleged owner to appear in person before the Town Justice for a fair 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/she may order:
- (1) The dog to 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; and/or
 - (2) Such other remedy as may be warranted by the circumstances in such case (including euthanasia).
- C. A violation of any order issued by a Town Justice under the provisions of this section shall be an offense punishable, upon conviction thereof, as provided in section 12 of this Local Law.

SECTION 16. Effective Date.

This Local Law shall take effect January 1, 2018

(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. 3 of 2017 of the (County)(City)(Town)(Village) of ORLEANS was duly passed by the ORLEANS COUNTY LEGISLATURE on OCTOBER 25, 2017, 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.)

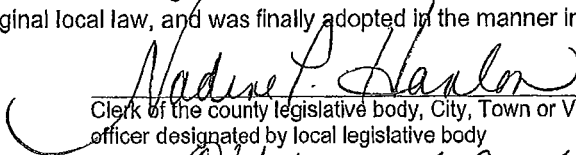
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.


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

Date: October 27, 2017

(Seal)