

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 Black Brook
- Town
- Village

Filed

DEC 18 2006

STATE RECORDS
DEPARTMENT OF STATE

Local Law No. 1 of the year 20 06

A local law Known as "Local Law of the Town of Black Brook relative to Dog Control"
(insert Title)

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

- County
- City of Black Brook as follows:
- Town
- Village

(Delete this line of text and enter text of local law here)

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

(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 20 06 of the ~~(County)(City)(Town)(Village)~~ of Town of Black Brook was duly passed by the Town Board on December 11 20 06, 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.

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

{Seal}

Date: 12/11/06

(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 Clinton

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]
Signature
James E. Martineau, Jr., Esq., Town Attorney
Title

County
City of Black Brook
Town
Village

Date: 12/11/06

**TOWN OF BLACK BROOK
LOCAL LAW #1 FOR 2006**

A Local Law to enact a new Dog Control Law of the Town of Black Brook and to repeal the existing Town of Black Brook Dog Control Law being Local Law # 1 for the year 1993.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BLACK BROOK AS FOLLOWS:

SECTION 1. TITLE

This Local Law shall be known and cited as 'Dog Control Law of the Town of Black Brook' being Local Law #1 for 2006.

SECTION 2. AUTHORITY

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

SECTION 3. PURPOSE

The Town Board of the Town of Black Brook finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this Local Law is to protect the health, safety and well being of persons and property from dog attack and damage by imposing restrictions in the keeping and running at large of dogs and the seizure thereof within the Town.

SECTION 4. DEFINITION OF TERMS

a. **AGRICULTURE AND MARKET LAW** - Agriculture and Market Law of the State of New York in effect as the effective date of this Local law, as Amended by this Local Law, as amended thereafter. All terms defined in Section 108 of the Agriculture and Markets Law shall have the same meaning as used herein unless specifically modified or otherwise defined herein.

b. **CONFINED** - That such animal 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 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 in a container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

c. **DOG** — Dog shall mean male or female, licensed or unlicensed, members of the species *canis familiaris*.

d. **DOG CONTROL OFFICER** - Any person authorized by the Town Board of the Town of Black Brook, Clinton County Legislature or the State of New York from time to time, directed or permitted, to enforce the provisions of this Local Law or the provisions of the Agriculture and Markets Law,

e. **HARBOR** - To provide food or shelter to any dog.

f. **LEASHED** - The term leashed shall mean restricted by a leash attached to a collar or a harness of sufficient strength to restrain the dog which shall be held by a person having the ability to control the dog.

g. **OWNER** - A dog owner is the person, persons, firm, association, or corporation who purchases the license, unless the dog is or has been lost, and such loss reported to the dog control officer or the police agency and reasonable search has been made. If an animal is not licensed, the term of the "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. 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 Local Law shall be held deemed to be the owner of such dog for the purpose of this local law. In the event any dog found to be in violation of this chapter shall be owned by a minor, 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 and violation of this Local Law.

h. **RECREATION AREA** - Recreation areas shall mean any real property owned by the Town, County, or State within the Town, which is used for recreational purposes by the public including, but not limited to, parks, or playgrounds

i. **RUN AT LARGE** - Run at large shall mean any dog that is unleashed and on the 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. This includes the running on any public highway. No dog shall be deemed to be at large if it is: (1) accompanied by and under the immediate supervision and control of the owner or other responsible person. (2) a police work dog in use for police work, or (3) accompanied by its owner or other responsible person and is actively engaged in hunting or trained for hunting on unposted or posted land with the permission of the owner of the land.

j. **TOWN** - Town, shall mean all areas located within the Town of Black Brook, Clinton County, State of New York.

k. **HABITUAL or HABITUALLY** -- Refers to the duration and frequency of any act prohibited by this Local Law including, but not limited to, howling, barking, whining or conduct that annoys or disturbs the comfort and repose of any person other than the owner of the dog. With reference to howling, barking, whining and other prohibitive acts, habitual shall mean the conduct by the dog of any restrictive acts which lasts more than 20 total minutes on any given day on more than three consecutive or non consecutive days within any one week. With respect to the Restriction number 7, Section 5 of this Local Law, habitually shall be defined as running, chasing or running along side or barking at any motor vehicle, motorcycle, bicycle or pedestrians while on a public street or highway or upon public or private property other than the owner or harbinger of said dog on more than three occasions within any 60 day period.

I. **SCHOOL PREMISES** - means any real property situate within the Town of Black Brook which is used for educational purposes or purposes incidental thereto.

SECTION 5. RESTRICTIONS

(A) It shall be unlawful for any owner of any dog in the Town of Black Brook to permit or allow such dog to;

1. Run at large:

2. Engage in habitual loud howling, barking, or whining or conduct itself in such a manner so as to unreasonably and habitually annoy or disturb the comfort and repose of any person other than the owner of such dog.

With respect only to this Restriction 2, either of the following two circumstances must occur

(A.) The Dog Control Officer must personally witness/hear the violation or

(B.) A valid complaint is made by an individual and said complaint is corroborated by additional statements in writing of at least one other individual living in a separate household who has witnessed the event.

3. Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, garbage containers or other property not belonging to the owner or cause damage or destruction to property.

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.

5. Habitually chase, run, alongside of or bark at any motor vehicle, motorcycle, bicycles, and or pedestrians while on a public street or highway or upon public or private property other than the owner or harbinger of said dog.

6. Create a nuisance by defecating, urinating, or digging on public property or private property other than said owner.

7. If a female dog, be off the owner's premises when in heat except when being transporting to a veterinarian's office or when involved in a formalized controlled breeding program.

8. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless said dog is on a leash.

9. Destroy, kill or damage any dog, cat, poultry, livestock, or domestic pets not belonging to the owner.

(B) Establishment of the fact or facts that a dog has committed any of the acts prohibited by subdivision (A) of this Section shall be presumptive evidence against the owner or harborer of such dog that he/she failed to properly confine, leash, or control his/her dog.

SECTION 8. ENFORCEMENT

This Local Law shall be enforced by any Dog Control Officer, Peace Officer, or Constable when acting pursuant to his/her special duties, or police officer in the employ of or under contract to the Town.

SECTION 9. WARNINGS

Any Dog Control Officer, Peace Officer or other person employed to enforce this Local Law shall have the authority in his or her sole discretion to issue a warning at the time of the first offense rather than the enforcement as provided herein provided that there is no personal or real property damage resulting. The warning shall be in writing and shall be similar to that of an Appearance Ticket and shall be issued to the owner of the dog or other person in control of the dog with the consent of the owner and a copy shall be filed by the Town Justice of the Town of Black Brook. If, at the time of the first offense and warning, the dog has been seized, the dog shall be immediately returned to the owner if practicable, If the dog has to be impounded the owner will be responsible for the impoundment fees as set forth herein.

SECTION 10 SEIZURE, IMPOUNDMENT REDEMPTION and ADOPTION

(A) Any Dog Control Officer, Peace Officer or other individual acting pursuant to his/her special duties or Police Officer employed by or under contract of the Town, may seize any dog in violation of this Local Law

(B) Promptly upon seizure of an identified dog, the owner of record of such dog shall be notified personally, or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by subdivision four of this section and by producing proof that the dog has been licensed.

(C) Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in Section 118 of the Agriculture and Markets Law. Impoundment fees are \$25.00 for 1st impoundment/offense if no warning has been given; \$35.00 for the first 24 hours or part thereof and \$10.00 for each additional 24 hours or part thereof for the second impoundment/offense, within one year of the first impoundment; \$50.00 for the first 24 hours or part thereof and \$10.00 for each additional 24 hours or part thereof for the third and subsequent impoundment/offense within one year of the first impoundment/offense.

(D) 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 Section 118 of said Article.

(E) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized pursuant to the provisions of section 118 of the Agriculture and Markets Law.

(F) No action shall be maintained against the Town of Black Brook, any dog control office or peace officer when acting pursuant to his/her special duties, or any other agent or office of the Town or person under contract to said Town of Black Brook, 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 the provisions of this local law or the Agriculture and Markets Law.

(G) The seizure of any dog or its redemption shall not relieve any person from any violation of this law or penalty described herein.

(H) At no time under this local law shall the Dog Control Officer, Peace Officer, when acting pursuant to his/her special duties, or Police officer in the employ of the Town or under contract to the Town be authorized to enter a building in order to seize a dog without the permission of the building owner. When permission is not given and probable cause exists to believe that the dog is in the building and is violation of the Agriculture and Markets Law or this Local Law, then a Dog Control Officer, Peace Officer when acting pursuant to his/her special duties, or Police Officer in the employ of the Town or under contract to the Town may proceed before a court of law to obtain a warrant to enter the building to seize the dog by application of the Criminal Procedure Law, Article 690,

SECTION 11 ENFORCEMENT PROCEDURES COMPLAINT/APPEARANCE TICKET

COMPLAINT:

(a) Any person who observes a dog in violation of this Local Law may file a Complaint with any Dog Control Officer of the Town of Black Brook 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 such dog as well as any damage caused. Such complaint may serve as the basis for enforcing the provisions of this Local Law. In addition, there shall be a statement by at least one additional person not living in the complainant's residence to corroborate the violation and support the complaint

(b) Upon receipt by the Town Justice of any such complaint, he/she shall summon the alleged owner to appear in person before him/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/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.
2. The dog to be confined to the premises of the owner.
3. Such other remedy as may be warranted by the circumstances in such case.
4. The owner to confine and destroy such dog as provided in Section 121 of the Agriculture and Markets Law, when such dog is determined to be dangerous in a dangerous dog proceeding pursuant to Section 121 of the Agriculture and Markets Law.
5. The owner or harbinger of the dog shall be fined as set forth at Section 12 of this Local Law.

(C) A violation of any Order issued by the Town Justice under the provisions of this Section 6 shall be an offense punishable, upon conviction thereof as provided in Section 12 of this Local Law.

SECTION 12. PENALTIES

(A) Any person who violates this Local Law or knowingly permits the violation of this Local Law or any of the provisions thereof shall be deemed to have committed an offense under this Local Law and any person convicted of any such violation after investigation and hearing shall be punished as hereinafter set forth:

(B) Any such persons upon such conviction for a first violation hereof shall be subject to a fine not to exceed \$25.00 if no warning is given and upon conviction of a second offence hereof, shall be subject to a minimum fine of \$50.00 and a maximum fine not to exceed \$250.00 and upon conviction of any subsequent violations hereof shall be subject to a minimum fine of \$75.00 and a maximum fine not to exceed \$250.00 and/or imprisonment for a period not exceeding fifteen (15) days. The determining factor shall be whether or not the dog owner has a prior conviction of this Local Law. It shall be irrelevant whether or not the same dog is involved.

(C) In addition to the fines as provided for above, any Justice may also, if the circumstances in his or her discretion so warrant, order permanent confinement of a dog by the owner thereof.,

(D) In the event of the failure of the dog owner to confine the dog after being ordered so to do, such dog may, upon order of any Justice, be euthanized subject, however, to the prohibitions contained in Section 374 of the Agriculture and Markets Law hereinabove referred to.

(E) Each separate violation shall constitute a separate additional offense.

SECTION 13 OBSTRUCTION OF GOVERNMENTAL ADMINISTRATION

No person shall hinder, resist, or oppose the dog control officer, peace officer when acting pursuant to his/her special duties, or police officer employed by or under contract to the Town, or other person(s) authorized to administer or enforce the provisions of this Local Law in the performance of the officer's or other person's duties under this Local Law. Any person hindering, resisting, or opposing the dog control officer, peace officer, when acting pursuant to his/her special duties, police officer, employed by or under contract to the Town shall be prosecuted pursuant to the Penal law 195.05, Obstructing governmental administration in the second degree.

SECTION 14 SEPARABILITY

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

SECTION 15 REPEALER

This Local Law shall supersede all prior local laws, ordinances, rules and regulations, including the Dog Control Local Law # 1 for the year 1993 of the Town of Black Brook effective relative to the control of dogs within the Town and they shall be, upon effectiveness of this Local Law, null and void.

SECTION 16: EFFECTIVE DATE

This Local Law shall take effect immediately upon the filing of the same in the office of the Secretary of State of New York.

RESOLUTION

WHEREAS and on the 13th day of November, 2006, Local Law #1 for the year 2006 of the Town of Black Brook entitled Dog Control Law Town of Black Brook for the Town of Black Brook relative to Dog Control was introduced by a member of the Town Board and copies of said Local Law in its final form were distributed to all the members of the Town Board of the Town of Black Brook on that date, and

WHEREAS, said Local Law has been on the desks of the members of said Town Board for at least seven (7) days exclusive of Sunday and the member of said Town Board have had an opportunity to study and review the same, and

WHEREAS, a notice of public hearing pertaining to said Local Law was duly published at least five (5) days prior to this 11th day of December, 2006, and

WHEREAS, said public hearing was so conducted upon said Local Law on this 11th day of December, 2006, and all interested persons in attendance were heard, and

WHEREAS, The Town Board of the Town of Black Brook determined that it would be in the best interests of the Town of Black Brook to enact said Local Law.

NOW THEREFORE, be it resolved and enacted as follows:

1. Said Local Law #1 for the year 2006 entitled "Local Law amending Local Law #1 for the year 1993 for the Town of Black Brook relative to Dog Control" is hereby enacted as Local Law of the Town of Black Brook.

2. The Town Attorney and Town Clerk respectively are hereby authorized and directed to prepare the necessary filing documents and to file the same with the Offices of the Secretary of State of State of New York.

Role Call Vote:

Mr. Ricky Nolan	<u>yes</u>
Mr. Jon Douglass	<u>yes</u>
Mr. Martin Connell	<u>yes</u>
Mrs. Rita Rougeau	<u>yes</u>
Mr. Howard Aubin	<u>yes</u>