

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 BLOOMING GROVE

FILED
STATE RECORDS

JUL 15 2024

DEPARTMENT OF STATE

Local Law No. 6 of the year 2024

A local law A LOCAL LAW TO REPEAL AND REPLACE CHAPTER 77 OF THE TOWN CODE
(Insert Title)
OF THE TOWN OF BLOOMING GROVE REGARDING DOG CONTROL RESTRICTIONS

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of BLOOMING GROVE as follows:

SEE ATTACHED

(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. 6 of 2024 of the (County)(City)(Town)(Village) of BLOOMING GROVE was duly passed by the TOWN BOARD on JULY 9 2024, in accordance with the applicable 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 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.)~~

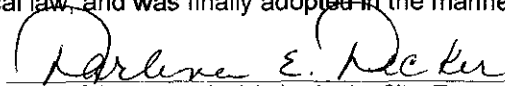
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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: July 10, 2024

(Seal)

**TOWN OF BLOOMING GROVE
LOCAL LAW NO. 6 OF 2024**

**A LOCAL LAW TO REPEAL AND REPLACE CHAPTER 77 OF THE
TOWN CODE OF THE TOWN OF BLOOMING GROVE REGARDING DOG
CONTROL RESTRICTIONS**

BE IT ENACTED by the Town Board of the Town of Blooming Grove, Orange County, New York ("Town Board") as follows:

Section 1. Authority.

The adoption of this Local Law is in accordance with Municipal Home Rule Law § 10.

Section 2. Legislative Intent.

It is the intention of the Town Board of the Town of Blooming Grove by the adoption of this local law to preserve public peace and good order in the Town and to promote the public health, safety and welfare of its people by enforcing regulations and restrictions on the activities of dogs which are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Blooming Grove.

Section 3. Purpose and scope.

Chapter 77 (Animals) of the Town Code is hereby repealed and replaced as follows:

ARTICLE I. Dog Control

§ 77-1. Definitions.

For the purpose of this article, the following terms shall have the following meanings:

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 at large if it is a guide dog actually leading a blind person or is a police work dog in use for police work or is accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on un-posted land or on posted land with the permission of the owner of the land.

DOG — Any member of the species *Canis familiaris*.

HARBOR — To provide food or shelter to any dog.

OWNER — Any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in the custody and control of parents or other head of household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for the purpose of enforcing this article.

PERSON — Any individual, corporation, partnership, association or other organized

group of persons, municipality or other legal entity.

§ 77-2. Regulations and prohibited acts.

It shall be unlawful for any owner of a dog in the Town of Blooming Grove to permit or allow such dog to engage in the following enumerated acts:

- A. **RUNNING AT LARGE.** It shall be unlawful for any owner of a dog within the limits of the Town of Blooming Grove to permit such dog, whether licensed or not, to be at large elsewhere than on the premises of the owner or on the premises of another person without the knowledge and consent of such other person, unless such dog is on a leash or under the full and immediate control of a person in charge of said dog.
- B. **NUISANCE.** It shall be unlawful for any owner of a dog in the Town of Blooming Grove to permit or allow such dog to engage in habitual loud howling, barking or whining so as to create a public nuisance or long continued noises shall unreasonably annoy, or disturb the comfort or repose of other persons or create an unreasonable noise disturbance across real property boundaries. Barking, howling and whining of a dog for a period in excess of 15 minutes and loud enough to be heard by a person other than the owner or harbinger of said dog shall be presumptive evidence of violation of this subsection.
- C. **ADDITIONAL PROHIBITIONS.**
 - (1) **Interference with enforcement officer.** It shall be unlawful for any person or persons to hinder, molest or interfere with any officer or agent of the Town in the performance of any of the provisions of this article.
 - (2) **Violation of article.** It shall be unlawful for any person to violate any provision of this article whether or not he has any knowledge of or intends any violation of said article.
- D. **LEASHING OF DOGS.** A person who owns a dog or has a dog in his care, custody or control shall restrain said dog at all times by a leash, rope, chain, cage while the dog is off the premises owned or occupied by such person, whether or not the dog is tagged or licensed.

§ 77-3. Seizure.

Any dog not so restrained found off the owner's premises shall be seized, held and dealt with in accordance with the Agriculture and Markets Law of the State of New York.

§ 77-4. Penalties for offenses.

Notwithstanding any other provisions of law relating to the seizures of dogs, a violation of § 77-2 of this article shall be punishable in accordance with § 119 of the Agriculture and Markets Law.

§ 77-5. Enforcement.

A. The Code Enforcement Officer, Police Department, any other officer or agent authorized by resolution of the Town Board, shall enforce this article. All such enforcement officers are authorized to issue appearance tickets.

B. In addition to any other method of enforcement, an appearance ticket may be issued pursuant to the Criminal Procedure Law for any violation thereof and that an answer to such appearance ticket may be made by registered or certified mail, return receipt requested, within five (5) days of the violations as provided in Subsections B and C of this section in lieu of personal appearance on the return date of the time and court specified in said appearance ticket.

C. If a person charged with the violation admits to the violation as charged in the appearance ticket, he may complete an appropriate form authorized by this article entering a plea of guilty thereby and forward such form and appearance ticket to the office specified on such appearance ticket. A check or money order in the amount of the penalty for a violation charged, in accordance with the penalty schedule appearing on the answer form, must also be submitted with such answer.

D. If the person charged with the violation denies part or all of the violation as charged in the appearance ticket, he may complete an appropriate form likewise prescribed for that purpose, entering a plea of not guilty thereby and forward such form and appearance ticket, together with security in the amount of \$100 to the office specified on such appearance ticket. Upon receipt, such answer shall be entered and a new return date established. Such person shall be notified by return mail of the date and place of such return date and the security shall be returned upon appearance thereat. If a person shall fail to appear at a return date, when such is provided for pursuant to this section, the security posted to secure such appearance shall be forfeited and a summons or a warrant of arrest may be issued pursuant to the Criminal Procedure Law.

E. The form for answer by plea of guilty or not guilty shall include a statement setting forth in substance the provisions of § 77-6 of this article and the schedule of penalties that can be imposed if a plea of guilty is entered. The Town Board shall approve the form as to form and content.

§ 77-6. License and impoundment fees; redemption and disposition.

A. The owner of any dog shall pay to the Town of Blooming Grove, Town Clerk as an annual license fee, including any license fees levied by state law, the following sums:

- (1) Five (5) dollars for each spayed or neutered dog.
- (2) Ten (10) dollars for each un-spayed or un-neutered dog.

B. The owner of any dog seized in accordance with the provisions of § 77-3 above shall be liable to pay such costs as shall fully and completely cover the cost of impounding and boarding the dog. Such fee shall be determined by the agency boarding the dog.

C. Any dogs unredeemed at the expiration of the redemption period shall be made available for adoption or euthanized. The party adopting the dog shall be responsible for licensing the dog and shall be responsible for the cost of spaying or neutering the adopted dog, as specified in the Humane Society's adoption contract, with a cash deposit

provided in an amount set by the Humane Society and approved by the Town of Blooming Grove, Town Board for such spaying or neutering. Spaying and neutering shall be done within forty-five (45) days or at the age of six (6) months in the case of puppies. The deposits shall be forfeited and the party adopting the dog shall be guilty of a violation if the acts are not done in the time prescribed.

D. It shall be a violation of this article for the owner of record to not redeem their dog during the redemption period.

E. The owner of any dog unredeemed at the expiration of the redemption period shall be liable for a civil penalty pursuant to § 119 of the Agriculture and Markets Law, including, without limitation, all outstanding costs, expenses and charges.

ARTICLE II. Dangerous Dogs

§ 77-7. Definitions.

For the purpose of this article, the following terms shall have the following meanings:

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 at large if it is a guide dog actually leading a blind person or is a police work dog in use for police work or is accompanied by its owner on other responsible person and is actively engaged in hunting or training for hunting on un-posted land or on posted land with the permission of the owner of the land.

DOG — Any member of the species *Canis familiaris*.

HARBOR — To provide food or shelter to any dog.

OWNER — Any person who keeps, harbors or has custody, care or control of a dog. Dogs owned by minors shall be deemed to be in the custody and control of parents or other head of household where the minor resides. Any person harboring a dog for a period of one week shall be deemed to be the owner of the dog for the purpose of enforcing this article.

PERSON — Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

DOMESTIC ANIMAL — Includes cats, dogs and any animal listed in § 108 of the State Agriculture and Markets Law.

TOWN — All public and private areas within the jurisdiction of the Town of Blooming Grove.

§ 77-8. Dangerous and Vicious dogs.

A. **DANGEROUS DOGS or VICIOUS DOGS.** It shall be unlawful for any dog owner who knows or has reason to know of any dangerous and vicious propensities of said dog to permit the dog to run at large in the Town of Blooming Grove.

(1) If any dog shall attack any person who is peaceably conducting himself in any place where he may lawfully be, such person or any other person witnessing the attack may destroy such dog while so attacking or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction, as

determined pursuant to § 77-12 herein.

(2) If any dog shall attack, chase or worry any domestic animal, as determined pursuant to § 77-12 herein, while such animal is in any place where it may lawfully be, the owner or caretaker of such domestic animal or any other person witnessing such attack may, for the purpose of preventing the killing or injury of such domestic animal, destroy such dog while so attacking, chasing, worrying or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such destruction.

(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting, as determined pursuant to § 77-12 herein.

(4) Any person may make a complaint of an attack upon a person or of an attack, chasing or worrying of a domestic animal to the Police Department that has jurisdiction in the Town of Blooming Grove and/or the Town Clerk. Such Police Officer or Town Clerk shall immediately inform the complainant of his right to commence a proceeding as provided in Subsection B of this section, and if there is reason to believe the dog is a dangerous/vicious dog, the Police Officer shall forthwith commence such proceeding himself with the assistance and guidance of the Town Attorney.

(5) Any person may, and any Police Officer as provided in Subsection B hereof shall, make a complaint under oath or affirmation to any Municipal Judge or Justice of such attack, chasing or worrying. Thereupon, the Judge or Justice shall immediately determine if there is probable cause to believe the dog is a dangerous/vicious dog and, if so, shall issue an order to any Police Officer or peace officer, directing such Officer to immediately seize such dog and hold the same pending judicial determination as herein provided. Whether or not the Judge or Justice finds there is probable cause for such seizure, he shall, within five (5) days and upon written notice of not less than two (2) days to the owner of the dog, hold a hearing on the complaint. If satisfied that the dog is a dangerous dog, the Judge or Justice shall then order the owner or any Police Officer or peace officer to destroy the dog immediately or shall order the owner to confine securely such dog permanently or at such time as otherwise specified in the order. If the owner fails to destroy or confine the dog as required by such order, any Police Officer or peace officer shall destroy such dog on or off the premises of the owner.

No dog shall be automatically deemed vicious if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it, as determined pursuant to § 77-12 herein.

(6) Nothing contained herein shall restrict the rights and powers derived from the provisions of Title IV of Article 21 of the Public Health Law relating to rabies and any rule and regulation adopted pursuant thereto.

B. APPEAL TO COURT — Any person aggrieved by any dog, as defined in § 77-7 of this article, may on his or her own motion apply to any court having jurisdiction for all the relief the law provides.

No person owning or harboring or having the care or custody of a dangerous and/or vicious dog shall suffer or permit such dog to go at large or be unconfined on the premises of such person. A dangerous and/or vicious dog is unconfined, as that term is used in this section, if such dog is not securely confined indoors or in a securely enclosed and locked covered pen or dog run upon the premises of the owner. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the dog.

No person owning, harboring or having the care of the dangerous and/or vicious dog shall suffer or permit such dog to go beyond the premises of such person or in public, unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding five (5) feet in length.

No person shall own or harbor any dangerous and/or vicious dog for the purpose of causing or encouraging said dangerous and/or vicious dog to unprovoked attacks upon human beings, and no person shall possess with intent to sell, or offer for sale, or breed or buy or attempt to buy within the Town any vicious dog.

The owner of any vicious dog shall register such dog with the Town Clerk and the Town of Blooming Grove Police Department no later than five (5) days after the effective date of determination that dog is vicious. The owner of a vicious dog shall produce proof within thirty (30) days after determination that said dog is vicious that he has obtained liability insurance in the amount of at least \$300,000 covering any damage or injury which may be caused by the dog. Such proof shall then be presented each twelve (12) months thereafter.

All premises in which a vicious dog is kept shall be posted with a sign or notice, printed in clear and legible type, warning the public of the presence of such dog, and said sign shall be conspicuously displayed.

§ 77-9. Liability for damages to person bitten.

The owner of any dog which bites any person while such person is on or in a public place or lawfully on or in a private place, including the property of the owner of such dog, shall be liable for damages suffered by the person bitten regardless of the known or former viciousness of the dog or the owner's knowledge of such viciousness. A person is lawfully upon private property within the meaning of this article when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws of Postal Regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner thereof; provided, however, that no owner of any dog shall be liable for any damages to any person or his property when such person shall mischievously or carelessly provoke or aggravate the dog inflicting such damage. It shall be an affirmative defense against liability if, at the time of any such injury, he has displayed in a prominent place on his premises a sign easily readable including the words "Dangerous Dog" or words to that effect.

§ 77-10. Enforcement.

The Code Enforcement Officer, Police Department, any other officer or agent authorized by resolution of the Town Board, shall enforce this article. All such enforcement officers are authorized to issue appearance tickets. This article shall be enforced in the same manner as provided in § 77-5.

§ 77-11. Probable cause.

In the event that a law enforcement agent of the Town has probable cause to believe that a vicious dog is being harbored or cared for in violation of this article, the Town may petition a court of competent jurisdiction to order the seizure and impounding of the vicious dog, and in the event that a law enforcement agent has probable cause to believe

that a vicious dog is running at large, then the agent may seize and impound the dog without seeking prior court order. All costs related to the order seizing and impounding said vicious dog, shall be the responsibility of the owner of said vicious dog.

§ 77-12. Penalties for offenses.

Whoever violates any provision of § 77-8(B) above shall be guilty of an offense and shall be fined up to a maximum of \$2,500 and any person so found guilty shall also pay any and all expenses, including shelter, food, veterinarian expenses for identification or certification or boarding and veterinarian expenses associated by the seizure of the vicious dog for the protection of the public and any other expenses as may be required for the destruction of any such dog. Any vicious dog, which has bitten or attacked a human being, shall be destroyed if such vicious dog represents a continuing threat of serious harm to human beings. It shall also be an offense subject to the penalties described above for any person to own or harbor or train any dog for purposes of dog fighting or encouraging said dog to unprovoked attacks upon human beings.

§ 77-13. Determination of viciousness.

A determination of viciousness shall be made substantially in accordance with the procedures of the State Agriculture and Markets Law.

§ 77-14. Application.

No statement in this article shall be construed to interfere with any additional requirements that may be imposed by any federal, State Agriculture and Markets Law or local authority having jurisdiction.

ARTICLE III. Dog Sanitation

§ 77-15. Removal of feces required.

A. Any person who owns a dog or has a dog in his or her care, custody or control (hereinafter "owner") shall immediately remove any feces left by the dog on any public property (including, but not limited to, public parks, green areas, streets and sidewalks) or left by the dog on any private property without authorization (excluding property owned by the owner). Such feces shall be removed and disposed of by a sanitary method.

B. An owner shall not permit feces left by a dog to accumulate unreasonably on any property in such a way as to create a nuisance or cause annoyance to any resident of the Town or to adversely affect the health or general welfare of the public.

§ 77-16. Enforcement.

The Code Enforcement Officer, Police Department, the Dog Control Officer, any other officer or agent authorized by resolution of the Town Board, shall enforce this article. All such enforcement officers are authorized to issue appearance tickets. This article shall be enforced in the same manner as provided in § 77-5.

§ 77-17. Penalties for offenses.

Notwithstanding any other provisions of law, a violation of this article shall be punishable by a fine of not more than \$45 for the first violation, not more than \$75 for the second violation, not more than \$175 for the third violation and not more than \$375 for the fourth and each subsequent violation.

Section 4. Supersession of other laws; authority.

This chapter supersedes and replaces Chapter 77 of the Code of the Town of Blooming Grove, County of Orange, State of New York. This chapter is enacted pursuant to Municipal Home Rule Law §§10 and any other law referenced herein as authority herefor.

Section 5. Repeal.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

Section 6. Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State.