

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE ST, ALBANY, NEW YORK 12231

(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.

FILED
STATE RECORDS

NOV 27 2009

County

City of Romulus

Town

Village

Local Law No. 2 of the year 2009.

DEPARTMENT OF STATE

A local law to amend Local Law 4 of the Year 2006, a/k/a 'the Zoning Ordinance of the Town of Romulus,' regulating the construction and operation of new pet breeders and regulations pertaining to the expansion of any existing pet breeders
(Insert Title)

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

County

City of Romulus as Follows

Town

Village

Section One. Zoning Ordinance Amended.

Local Law 4 of the Year 2006, also known as "Zoning Ordinance For The Town of Romulus, Seneca County, New York," is hereby amended to add the following:

"Article VIII, Section 14: Dog/Cat Breeding Facilities"

A. Intent and Purpose:

The purpose of this law is to protect and preserve the general health, safety and welfare of dogs and cats found in breeding facilities and dealers in the Town of Romulus by establishing regulations regarding the location, use and operation of said facilities and dealers in order to avoid and prevent detrimental effects on companion animals and the increase of dogs and cats found in the animal shelters and rescue organizations due to their poor conditions to becoming companion animals. It is further the intent of this local law to provide for local public health, safety and welfare and the rights of consumers by preventing or alleviating unsafe or unsanitary conditions for companion animals which might impact the residents of the Town of Romulus.

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

B. Definitions: Local law to be amended by adding the following definitions to Articles II.

1. **Commercial Dog/Cat Breeding Facility:**

Any building or lot upon which a person (or persons) breeds two or more litters of dogs/puppies in a calendar year and the facility is licensed by the USDA (United Stated Department of Agriculture) or :
Sells or transfers any dog to a dealer or pet shop kennel; or
Sells or transfers more than 50 dogs per calendar year
2. **Dealer:**

A person who

 - (1.) Publicly or privately sells or offers for sale any dog belonging to another person for consideration, a fee or a commission or percentage of the sale price;
 - (2.) Transfers dogs at wholesale for resale to another; or
 - (3.) Offers or maintains dogs at wholesale for resale to another
3. **Private Breeding Facility:**

Any building or lot upon which a person does not meet the definition of “commercial dog/cat breeding facility” where dogs/cats are bred by the owner, for the purpose of hunting, tracking and exhibiting in dog/cat shows, performance events or field and obedience trials.
4. **Rescue Organizations:**

Any facility where homeless, stray, abandoned, rescued or unwanted animals are received, harbored, maintained or made available for adoption to the general public and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare, protection or humane treatment of animals.
5. **Rescue Organizations networks (fostering):**

Any person or persons who houses animals at the request of a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax-exempt organization devoted to the welfare, protection or humane treatment of animals who accepts companion animals for the purpose of finding permanent adoptive homes for animals and does not maintain a central facility for keeping animals, but rather uses a system of fostering in private homes or boarding or keeping pets in animal shelters.

 - (1.) May foster or board up to 20 animals at a time per year.
6. **Dog:** A live *Canis lupus familiaris* or any dog hybrid
7. **Cat:** A live *Felis catus* or any cat hybrid

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

**C. Standards: Local Law to be amended by adding the following chart to Article IV.
Regulations of Established Zones, Section 1.**

1. Regulations for Dog and/or Cat Breeding Facilities and Dealers:

	Conservation/ Recreation	Agriculture	Lakeshore Residential	Industrial Warehouse	Hamlet Residential	Institution/ Governmental	E/D
<u>Private Pet Breeding Facility</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Commercial Dog Breeding Facility</u>	NA	NA	NA	SP	NA	NA	NA
<u>Rescue Organization s</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Rescue Organization Networks</u>	NA	NPR	NPR	NA	NPR	NA	NA
<u>Dealers</u>	NA	NA	NA	NA	NA	NA	NA

- NA - Not Allowed/Prohibited
 NPR - No Permit Required
 ZPR - Zoning Permit Required
 SP - Special Permit Required
 A -Allowed

D. Standards:

1. A commercial dog/cat breeder and/or dealer will be permitted in the Town of Romulus in its designated district only under the following conditions:
 - a. All animals shall be kept in clean and sanitary premises, structures or enclosures.
 - b. The ambient temperature shall be consistent with the requirements of the specific companion animals. Heating shall be deemed necessary when the inside ambient temperature of the facility falls below fifty (50) degrees Fahrenheit for a period of four (4) consecutive hours and cooling shall be required when the temperature of the facility rises above eighty-five (85) degrees Fahrenheit.
 - c. All facilities shall be adequately ventilated with fresh or filtered air to minimize drafts, odors and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be provided by either natural or

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mechanical means. The necessary equipment or comparable means shall be provided to exhaust the air from the animal area to the outside of the building.

- d. Uniformly distributed natural and/or artificial lighting shall be provided to permit routine inspection and facilitate routine cleaning and the proper care and maintenance of the animals. Lighting shall be so arranged as to protect each animal from excessive illumination.
- e. One inside pen shall be provided for each dog or cat boarded or kept.
- f. For dogs, any inside pen shall have a minimum measurement of three (3) feet wide by four (4) feet in length for all dogs except those 100 lbs or over which will have a minimum of three (3) feet by five (5) feet in area size. Any pen shall be of sufficient height for the dog to stand fully erect on all four legs with at least (6) inches of headroom.
- g. For cats, any inside pen shall have a minimum measurement of two (2) feet wide by two (2) feet in length for all cats. Any pen shall be of sufficient height for the cat to stand fully erect on all four legs with at least (3) inches of headroom.
- h. For every three (3) dog pens there shall be a minimum of one (1) outside run.
- i. There shall be a minimum of one (1) outside run per three (3) dogs boarded or kept, and there shall be no more than one (1) dog per run at any one time.
- j. Each outside run shall:
 - Have a concrete base;
 - Be enclosed by a minimum six (6) foot high chain link fence with shelter and with secure gates;
 - The size of the run shall be (3) feet in width and ten (10) feet in length except for dogs of the size of 100 lbs or more. For dogs 100 lbs or more, the run shall be four (4) feet in width and ten (10) feet in length.
- k. Sewage and waste shall be disposed of by connection of drains to a sanitary sewer or a state, county or locally approved sewage disposal system. Drainage systems shall be provided with back flow prevention devices on submersible inlets and hair traps, if required by law, on all plumbing lines in animal areas where hoses may be attached for cleaning of the facility.
- l. A facility can only be established on at least five (5) acres of property located at least one hundred (100) yards from any adjoining property lines. A facility cannot be established within a one mile radius of the property boundary of any existing commercial breeding facility.

2. Inspection Requirement:

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

- a. As heretofore provided, a person may operate a commercial breeding facility in the Town of Romulus only with a special use permit.
 - b. Prior to the commencement of any use or upon any transfer of ownership or control of a facility the premises must be inspected by the Zoning officer, together with the local dog control officer found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for a commercial dog/cat breeding facility an/or dealers and in compliance with the Romulus Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and the Uniform Fire Prevention and Building Code.
 - c. All zoning officers shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of the inspection of the premises by such officials.
 - d. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit representatives of the Town Zoning Officer, the Town Dog Control Officer, the Seneca County Health Department, the Seneca County Sheriffs Department, the New York State Police, and the State Health Department, the Department, or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the commercial dog/cat breeding facility and/or Dealer the purpose of ensuring compliance with this article at any time during normal operational hours.
3. The duration of any special use permit shall be for a maximum period of one year. Any special use permit for uses under this Article shall expire on December 31 of each year unless stated. The special use permit shall run for the calendar year if so renewed by the Planning Board for the Town of Romulus. An application for renewal of any permit must be made no more than ninety (90) and no less than (60) calendar days prior to expiration of such permit.
4. If, upon inspection as described above, it shall be found that the operator has violated any provisions of this chapter, the Planning Board shall have the power to revoke or suspend the permit and order the animals removed or Commercial dog/cat breeding facilities and/or dealers closed after notice and an opportunity for the owner/operator to be heard.
5. In addition to the other provisions of the Town Code, it shall be deemed a violation of Town Zoning Code if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator:
- a. Has violated or is not in compliance with any section of the Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law and/or any section of the New York Penal Law relating to mistreatment of animals; or
 - b. Has refused to allow any inspection of the Commercial Breeding Facility or Dealer Facility as authorized by this article; or
 - c. Operates with an expired special use permit.

E. Substantive Requirements: Pre-Existing Commercial Dog/Cat Breeding Facilities and/or Dealers

1. Pre-Existing facilities shall be considered non-conforming structures and must follow the terms under Article XI of the Town's Zoning Laws and be required to obtain a special use permit. Refer to Article IX for the Special Use Review.

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2. Non-conformities shall be allowed no modification and/or expansion without a Variance except for expanding the size of kennel runs to meet requirements in section D. of standards. The facility may not increase the number of dogs bred within the facility.
3. Non-conformities must meet the standards set for all commercial dog/cat breeders and dealers in the Town of Romulus (see Sec. D: Standards above).
4. Such pre-existing commercial dog/cat breeding facilities and dealers shall be subject to the same regulations as specified in this local law with an annual renewal required which will include an annual inspection by the Code Enforcement Officer and the Animal Control Officer.
5. Pre-Existing facilities shall have 90 days after the effective date of this local law to apply for their special use permit.

F. Authority:

1. Refer to Article XIV, Section 5.
2. The Code Enforcement Officer has the authority to examine the premises and locations of any buildings or structures in the Town of Romulus and shall determine whether or not they comply with the existing zoning laws. The Animal Control Officer has authority to inspect the premises and buildings and assess the conditions of the dogs/cats within the buildings and structures in the Town of Romulus. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency; officer or employee of the Town and such record shall show the disposition of all such violations.

G. Penalties:

1. Courtesy Notice of Violation as seen in Article XII, Section 5 (Investigation and Report).
2. A violation shall be an offense, punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a first offense; a fine not to be less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a second offense within a period of five years from the date of the commission of the first offense; a fine not to be less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both, for a conviction for a third or subsequent offense within a period of five years from the date of the commission of the first offense. Each day's continued violation shall constitute a separate additional violation.

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3. In addition, any person who violates any provision of this code or who shall omit, neglect or refuse to do any act required thereby shall be subject to a civil penalty of not less than \$500.00 nor no more than \$3000.00 recoverable by the Town of Romulus in an action in the small claims court, part of the Town of Romulus justice court.
4. Whenever a suspected violation of the code occurs, any person may file a signed written complaint reporting such violation to the Code Enforcement Officer. The Code Enforcement Officer may also investigate any oral complaint made to his/her office. He /She may direct the Animal Control Officer to accompany or investigate alone in his/her place. All complaints, written or oral, shall be properly recorded, filed and immediately investigated by the Code Enforcement Officer and the Local Animal Control Officer.

Section Two. Severability Clause

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The Town of Romulus hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section Three. Precedence and Compatibility with Local laws

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations and shall be read in such a manner as to effectuate consistency with any and all such regulations

Section Four. Effective Date

This Local Law shall be effective immediately upon passage and filing with the New York Secretary of State. Further, such a measure may be rendered effective against particular persons at an earlier date through personal service upon such persons certified by the clerk and notation of the date of passage and entry into the minutes.

(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. 2 of 2009 of the ~~(County)(City)(Town)(Village)~~ of Romulus was duly passed by the Town Board on NOVEMBER 18, 2009, 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 200__ 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 _____ 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 disapproved)(repassed after disapproval) by the _____ on _____, 20____. 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 2002 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not disapproved)(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 chairman 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.

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

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 of 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.

Angel J. Lawrence
Deputy

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

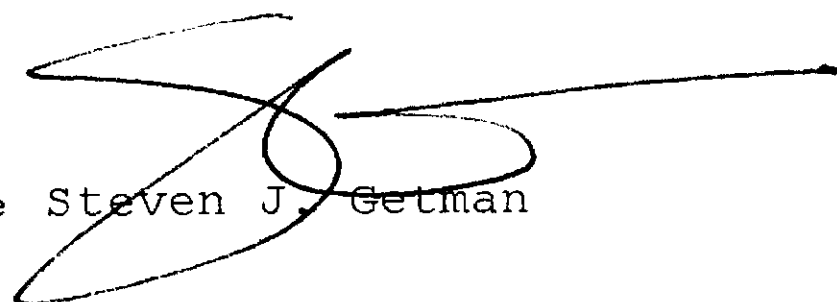
(Seal)

Date: *November 20th, 2009*

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney or locality.)

STATE OF NEW YORK
COUNTY OF SENECA

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 Steven J. Getman

Title: Attorney

Town of Romulus

Date: *11-20-09*

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