

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 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.

~~County~~

~~City~~ of

CLAY

Town

~~Village~~

Local Law No. 1 of the year 20 09

A local law ADDING CHAPTER 90 ENTITLED "TOWN CONSTABLE" TO THE CODE
OF THE TOWN OF CLAY

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

~~County~~

~~City~~ of

Clay

Town

~~Village~~

as follows:

SEE ATTACHED LOCAL LAW

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

MAY 05 2009

MISCELLANEOUS
& STATE RECORDS

(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 09 of the (County)(City)(Town)(Village) of Clay was duly passed by the TOWN BOARD OF THE TOWN OF CLAY on April 20th 2009, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

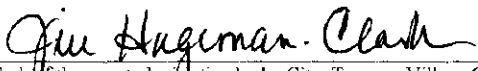
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one, above.

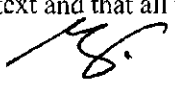

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
JILL HAGEMAN-CLARK, TOWN CLERK
Date: April 29th, 2009

(Seal)

(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 ONONDAGA

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

ROBERT M. GERMAIN, TOWN ATTORNEY

Title

~~XXXX~~

City of of Clay

Town

Village

Date: April 29th, 2009

LOCAL LAW NO. 1 OF THE YEAR 2009

TOWN OF CLAY

LOCAL LAW NO. 1 OF THE YEAR 2009 ADDING CHAPTER 90 ENTITLED, "TOWN CONSTABLE" TO THE CODE OF THE TOWN OF CLAY

IT IS ENACTED by the Town Board of the Town of Clay, County of Onondaga, as follows:

SECTION 1. Adding a new chapter to be known and designated as **"CHAPTER 90", "TOWN CONSTABLE"** to the Code of the Town of Clay.

The purpose of this local law establishes the Town of Clay as a constabulary and creates the office of Town Constable as authorized by Section 2.10 of the Criminal Procedure Law of the State of New York and Section 20(1) of the Town Law of the State of New York, and to perform such duties at the direction of the Supervisor, Town Board and/or Town Justices for the Justice Court of the Town of Clay, as allowed by the laws of the State of New York.

Said Local Law is to read as follows:

Called public hearing at the **March 16th, 2009** Town Board Meeting for **April 6th, 2009** at 7:35 P.M., local time.
Public hearing notice published in the Post Standard **March 27th, 2009**
Public hearing by the Town Board held and closed **April 6th, 2009**.
Approved by Town Board on **April 20th, 2009**.
Sent to Dept. of State **April 27th, 2009**.
Received Notice of filing from

CHAPTER 90

TOWN CONSTABLE

§ 90-1. Title.

This Chapter shall be known and may be cited as office of **“Town Constable”** of the Town of Clay, New York.

§ 90-2 Purpose.

The purpose of this Chapter is to establish the Town of Clay as a Constabulary and to create the office of Town Constable as authorized by Section 2.10 of the Criminal Procedure Law of the State of New York and Section 20(1) of the Town Law of the State of New York, and to perform such duties at the direction of the Supervisor, Town Board and/or Town Justices for the Justice Court of the Town of Clay, as allowed by the laws of the State of New York.

§ 90-3. Persons designated as peace officers.

Notwithstanding the provisions of any general, special or local law or charter to the contrary, only the following persons shall have the power of and shall be peace officers and must be an elector of the Town of Clay:

1. The Town Constable shall be a constable, peace officer or police constables of a town provided such designation is not inconsistent with local law and the office of the Town Constable shall be an appointed position.
2. Upon appointment of a constable, or any peace officer, the Town must provide name, date of birth, rank or title, official station and whether he or she is employed full-time or part-time to the New York State Division of Criminal Justice Services, Albany, New York, pursuant to Executive Law § 845 on a semiannual basis (January and July).

§ 90-4. Powers and Duties.

- A. The powers and duties of a town constable/peace officer are derived from two sources: Town Law, Section 39 and Criminal Procedure Law Section 2.20 of the State of New York:
 1. make warrantless arrest pursuant to section 140.25 of the Criminal Procedure Law;
 2. use physical force and deadly physical force in making an arrest or preventing an escape pursuant to section 35.30 of the Penal Law of the State of New York;
 3. to carry out warrantless searches whenever such searches are constitutionally permissible and acting pursuant to their special duties;

4. to issue appearance tickets pursuant to subdivision three of section 150.20 of the Criminal Procedure Law of the State of New York, when acting pursuant to their special duties;
5. to issue uniform appearance tickets pursuant to article 27 of the Parks, Recreation and Historic Preservation Law and to issue simplified traffic informations pursuant to section 100.25 of the Criminal Procedure Law and section 207 of the Vehicle and Traffic Law whenever acting pursuant to their special duties;
6. to issue a uniform navigation summons and/or complaint pursuant to section 19 of the Navigation Law whenever acting pursuant to their special duties;
7. to issue uniform appearance tickets pursuant to Article 71 of the Environmental Conservation Law whenever acting pursuant to their special duties;
8. to possess and take custody of firearms not owned by the peace officer, for the purpose of disposing, guarding, or any other lawful purpose, consistent with his or her duties as a peace officer; and
9. exercise any other power which a particular peace officer is otherwise authorized to exercise by any general, special or local law or charter, rule, regulations judgment or order whenever acting pursuant to his or her special duties, provided such power is not inconsistent with the provisions of the Penal Law, or this chapter.
10. for the purposes of this section a peace officer (Town Constable) acts pursuant to the specialized nature of his/her special duties when performing the duties of his/her office, pursuant to the specialized nature of his/her employment, whereby he/she is required or authorized to enforce any general, special or local law or charter, rule, regulation, judgment or order
11. at the direction of the Supervisor, appear in Town Justice Court to keep order. This will include monitoring the weapons screening program and security of the Courts;
12. make collections pursuant to executions and garnishee executions issued upon judgments rendered in Justice Court;
13. serve civil, legal and criminal papers, including subpoenas or orders on behalf of the Town Supervisor, Town Board and Town Justices;
14. at the direction of the Town Supervisor or Town Board maintain order at Town Board Meetings and additional Town functions as needed; and
15. perform or assist with required security functions at Town Hall, including alarm response and building security and perform other duties as directed by the Town Supervisor, Town Board and/or Town Justices as allowable by law; and

16. town Constable/peace officers may not execute search warrants or warrants of arrest; and
17. town constables/peace officers, pursuant to Criminal Procedure Law section 2.20, with the exception of certain arrests, and the prevention of escapes, may exercise such Town constables/peace officers powers only while engaged in the duties set forth in this local law.

§ 90.5 Qualifications.

The minimum qualification for the position of a town constable/peace officer shall be a high school diploma and a minimum of three years full or part time police or peace officer experience. Have a valid New York State driver's license and pistol permit and a DCJS certified basic New York State Police Officer of Peace Officer courses.

§ 90.6 Training.

Town constables/peace officers must be trained in accordance with section 2.30 of the Criminal Procedure Law of the State of New York.

§ 90.7 Severability.

If any paragraph, section, sentence or portion of a sentence of this Local Law shall be found and determined to be invalid, unlawful and/or unconstitutional, such determination shall not invalidate or void any other paragraph, section, sentence or portion thereof, and such other parts thereof shall remain in full force and effect unless and until legally revoked, modified and/or amended.

§ 90.8 Effective date

This Local Law shall take effect upon filing in the Office of the Secretary of State