

LOCAL LAW NO. _____ - 2018

A LOCAL LAW PROTECTING AND PROVIDING FOR THE HEALTH AND WELL-BEING OF
DOGS IN ONONDAGA COUNTY, AND AMENDING LOCAL LAW NO. 5 - 2017

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ONONDAGA, AS
FOLLOWS:

Section 1. Findings/Purpose.

Often referred to as “man’s best friend”, dogs are companions, valued for the animals’ loyal behavioral traits and ability to be kept in close proximity to people in domestic situations. Some dogs are left outdoors means to protect themselves. These animals are exposed and vulnerable to changing weather conditions. In Onondaga County, weather conditions are famously known to change quickly and dramatically. By way of example, dangerous conditions include: temperatures at extreme ends of the spectrum, subzero wind chills, sun, thunderstorms, and high humidity. No dog should be left outside, tethered and exposed to the weather for prolonged periods when the temperature falls below the freezing point of water. With temperatures below the freezing point, a dog may experience harm and damage to its skin, causing pain. Similarly, dogs left outside, tethered and exposed for prolonged periods when the temperature rises to greater than 90° Fahrenheit, is believed likely to result in such dogs suffering heatstroke or other bodily harm.

Consistent with Municipal Home Rule Law section 10(1)(ii)(a)(12), this local law protects and provides for the health and well-being of dogs in Onondaga County by regulating the manner in which dogs may be kept outdoors. This local law is intended to provide greater protection for dogs than found within New York State Agriculture and Markets Law Sections 353-b and 353 at the time of adoption. Humane treatment of dogs not only provides these animals with a better quality of life, but may also reduce the likelihood of dogs having harmful behaviors towards other animals. It is believed that most dogs tethered outside for prolonged periods do not have adequate protection.

Section 2. Regulations.

(a) Prohibition.

No person who owns or has custody or control of a dog shall knowingly leave such dog tethered outdoors for longer than a period of 2 continuous hours at such time as when either (1) the actual air temperature is lower than 32° Fahrenheit (not accounting for wind chill), (2) the actual air temperature is greater than 90° Fahrenheit (not accounting for humidity levels), or (3) during such period of time as extreme weather conditions exist, where any such condition in (1), (2), or (3) above actually known to such person or reasonably should have been known to such person. Actual harm or injury need not be shown to prove a violation of the prohibition in this subsection.

(b) Rebuttable Presumptions.

Extreme weather conditions shall be presumed to have been present in the event that a weather alert was in effect for a region reasonably construed and commonly understood to be affecting the region in which the dog was left outdoors and during such time as the dog was left outdoors.

A dog exhibiting signs of frostbite shall be presumed to have been left outdoors for longer than a period of 2 continuous hours at such time as when the actual air temperature was lower than 32° Fahrenheit.

A dog exhibiting signs of heatstroke shall be presumed to have been left outdoors for longer than a period of 2 continuous hours at such time as when the actual air temperature was greater than 90° Fahrenheit.

(c) Exceptions.

This local law shall not apply:

- to dogs on a leash or other restraint under direct supervision or control of persons actively engaged in the recreational activities, including walking, jogging, or running; and
- to dogs required to be tethered under an applicable law, rule, regulation, or court order.

(e) Definitions.

For purposes of this local law, the terms listed below have specific definitions, as follows.

- “extreme weather conditions” shall include inclement weather, being weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold, and otherwise consistent with the provisions of New York State Agriculture and Markets Law Section 353-b(1)(b), as may be amended from time to time.
- “weather alert” shall mean a broadcast of the National Weather Service regarding one of the following weather-related events, reasonably construed to be affecting the region in which the dog was left outdoors: blizzard warning, severe thunderstorm (watch or warning), severe weather statement, tornado (watch or warning), winter storm (watch or warning).
- “outdoors” shall mean a location outside a permanent structure capable of habitation or occupancy by people during an extreme weather event or period of time with temperatures falling below 32° Fahrenheit or greater than 90° Fahrenheit (depending on the applicable weather conditions), such as a house, apartment building, or office building. Examples of non-suitable outdoor structures include, without limitation, wire cages and non-insulated structures, including those made of plastic (e.g., calf hutch).
- “tether” shall include the actions of leashing, fastening, securing, chaining, tying, or otherwise restraining a dog to any stationary object outdoors.
- “working dog” shall mean any dog that is trained to herd and/or protect livestock or control bird and/or wildlife populations and is actually or has been used for such purposes.

Section 3. Enforcement, Penalties, and Registration Obligations.

(a) Enforcement Officers.

This local law shall be enforced by the Onondaga County Sheriff’s Office, or designee, and may also be enforced by any police officer, local dog control officer, peace officers, animal control officer, New York State Police, having jurisdiction within Onondaga County, or any other officers as may be designated by the Onondaga County Legislature via resolution from time to time (where any such officer shall be an “enforcement officer”). Such enforcement officers shall have the authority to enforce the provisions of this local law and to take such necessary and related enforcement actions, including, without limitation, accepting, recording, and investigating complaints, issuing appearance tickets, obtaining supporting depositions, and preparing and submitting criminal and civil complaints to a court of competent jurisdiction.

(b) Classification of Offense.

Any person who violates the prohibition found within Section 2(a) of this local law, shall, upon conviction thereof, be guilty of a violation, as defined in Section 55.10 of the New York State Penal Law, as may be amended from time to time. Each calendar day in which such person violates Section 2(a) of this local law shall constitute a separate offense.

(c) Penalties and Registration.

The court, in its discretion, may impose a sentence of imprisonment to be fixed by the court for a term not to exceed fifteen days, consistent with Section 70.15(4) of the New York State Penal Law, a sentence to pay an amount to be fixed by the court not exceeding the amount of two hundred fifty dollars, consistent with Section 80.05(4) of the New York State Penal Law, or both.

The court may also elect to cause the dog(s) underlying the basis of the conviction to be surrendered or otherwise forfeited by the person after such conviction. The surrender or forfeiture shall be to an enforcement officer, as provided herein above.

In lieu of or in addition to any other penalty imposed under this local law, the court may impose upon any person who fails to comply with Section 2 of this local law a civil penalty, enforceable and collectable by Onondaga County, in the amount of two hundred fifty dollars for a first offense, five hundred dollars for a second offense, and one thousand dollars for each additional offense.

Conviction of a person under this local law shall require such person to register with the Animal Abuser Registry as an Animal Abuse Offender and to comply with the entirety of Local Law No. 5 - 2017, as amended herein below.

(d) Disposition of Fines.

All fines collected pursuant to this local law shall be the sole property of Onondaga County, kept and accounted for separately, to be used for promoting animal welfare within Onondaga County, including, programs of public education.

Section 4. Severability.

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect except as expressly limited by such order or judgment.

Section 5. Effect on Existing Local Legislation.

Local Law No. 5 - 2017, establishing an Animal Abuser Registry, is hereby amended such that the definition of an “Animal Abuse Crime” shall now include New York State Agriculture and Markets Law Section 353-b – Appropriate Shelter for Dogs Left Outdoors within subsection (a) thereof and shall now include a new subsection (f) to read as follows: “Violating local laws enacted by Onondaga County providing for the health and well-being of dogs in Onondaga County, including the local law passed on March 6, 2018, becoming effective on April 1, 2018.”

Section 6. Reverse Preemption.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such

action by the County of Onondaga. The Onondaga County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 7. Effective Date.

This local law shall take effect on April 1, 2018, and shall be filed, consistent with the provisions of the Municipal Home Rule Law.

LL – Protecting Dogs
KMB