

LAI D ON DESKS 2/10/15
DISCUSSION ONLY 4-9-15 & 5-7-15
GOVERNMENT SERVICES & ADMINISTRATION

RESOLUTION NO. 2015042

RE: LOCAL LAW NO. OF 2015, A LOCAL LAW IN CONNECTION
WITH THE OUTDOOR RESTRAINT OF COMPANION ANIMALS

Legislators FLESLAND, PULVER, ROLISON, WEISS, SAGLIANO, FARLEY,
TYNER, STRAWINSKI, JETER-JACKSON, JOHNSON and MAC AVERY offer the
following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No. of
2015, which has been submitted this day for consideration by said Legislature.

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 8th day of June 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 8th day of June 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

LOCAL LAW NO. FOR 2015

RE: A LOCAL LAW IN CONNECTION WITH THE OUTDOOR RESTRAINT OF
COMPANION ANIMALS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
DUTCHESS, as follows:

SECTION 1. LEGISLATIVE INTENT AND FINDINGS.

The Dutchess County Legislature has determined that the practice of fastening a dog outdoors for a prolonged period to a stationary object, such as a structure, a pole, or a tree can be inhumane and may present a threat to the safety of the dog, other animals and human beings. The Legislature has further determined that it is in the best interest of the residents of Dutchess County, as well as their pets, to ensure the safety of all by regulating the amount of time, as well as the manner in which, a dog may be restrained outdoors.

SECTION 2. DEFINITIONS.

As used in this section:

- a) "Tether" means to restrain a dog by attaching the dog to any object or structure, including without limitation a house, tree, fence, post, garage, or shed, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering does NOT include the use of a leash to walk a dog.
- b) "Weather Alert" shall mean a National Weather Service warning for the following conditions: Flash Flood Warning, Areal Flood Warning, Wind Advisory, High Wind Warning, Heat Advisory, Excessive Heat Warning, Severe Thunderstorm Watch or Warning, Tornado Watch or Warning, Tropical Storm Watch or Warning, Hurricane Watch or Warning, Winter Weather Advisory, Freezing Rain Advisory, Wind Chill Advisory or Warning, Winter Storm Warning, Blizzard Warning and Ice Storm Warning.

SECTION 3. TETHERING REQUIREMENTS.

It shall be unlawful to tether a dog outdoors, except when all of the following conditions are met:

- a) The tether must be attached to the dog with a buckle type collar or a body harness made of nylon or leather that is at least one inch thick. Choke or pinch type collar, attached weights and chains over one-quarter inch thick cannot be utilized for tethering.
- b) (i) The length of a stationary tether shall not be less than ten feet or five times the length of the dog's body as measured from the tip of the nose to the base of the tail, whichever length is greater; shall connect at both ends with a swivel; shall

weigh less than 1/10th of the dog's weight; shall be free of tangles; and shall restrain the dog to the owner's property.

(ii) If the dog is tethered to a pulley, running line, trolley, or cable system, it must be a minimum of fifteen (15) feet long, less than seven (7) feet above the ground and meet the conditions as stipulated in 3(b)(i).

- c) The dog must have access to shade, food, water, shelter and dry ground.
- d) The dog must not be tethered outdoors during a weather alert event.
- e) The tethered dog is at least 6 months old.
- f) The tethered dog is apparently free of any medical or behavioral condition that could be exacerbated by tethering.
- g) If there are multiple dogs, each must be tethered separately and on a separate pulley, running line, trolley, or cable system, if one is being used.
- h) A tethered dog shall have access to appropriate shelter that will allow the dog to remain dry and to be protected from the elements. In addition to complying with the requirements of Section 353-b of New York State Agriculture and Markets Law, the shelter shall: be fully enclosed on all sides except one, which side shall have an opening that will allow the dog easy entry to and exit from the shelter; have a slanted, waterproof roof; have a solid floor. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat, and large enough to allow the dog to stand, lie down with limbs outstretched, and turn around comfortably. The area around the shelter shall be kept free of standing water, ice and waste.
- i) A dog may be tethered outside for a maximum of 12 hours and only during daylight, as defined by sunrise and sunset.
- j) In addition to the above requirements, tethered dogs must be free of cruel conditions or inhumane tethering at any time. For purposes of this section, "cruel conditions or inhumane tethering" shall include the following:
 - (i) Exposure to animal waste, garbage, noxious odors or objects that could injure or kill a dog.
 - (ii) Exposure to taunting, prodding, provoking, hitting, harassing, threatening or otherwise harming a tethered or confined dog.

SECTION 4. ENFORCEMENT.

This Local Law shall be enforced by the office of the Dutchess County Sheriff and may also be enforced by any police officer, local Dog Control or Animal Control officer in their respective jurisdictions, or humane law officer or investigator with jurisdiction within

Dutchess County.

A violation of any of the provisions of this section shall, for a first offense, be punishable by a fine of up to two hundred and fifty dollars (\$250.00).

For a second offense, the fine shall be up to five hundred dollars (\$500.00) and/or fifty (50) hours of community service. In addition, the offender shall be responsible for the cost of the investigation and prosecution.

For a third or subsequent violation, the fine shall be one thousand dollars (\$1,000.00) and/or one-hundred and fifty (150) hours of community service plus surrender of dog, if ordered by court. In addition, the offender shall be responsible for the cost of the investigation and prosecution. All third time offenders, subsequent to the enactment of this law, are required to register as an animal abuser at such time that an animal abuse registry is lawfully established.

Fines collected pursuant to this Section shall be deposited with the Dutchess County Commissioner of Finance, identified with a separate General Ledger account number in the Sheriff's budget, and shall be used for Humane Law Enforcement in the County of Dutchess.

SECTION 5. EFFECT OF OTHER LAWS, REGULATIONS.

This Local Law will have no effect in a city, town or village located within the County of Dutchess that has enacted an ordinance, resolution, or law regulating the tethering of dogs within its Jurisdiction.

SECTION 6. SEVERABILITY.

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on the remaining portions of this local law, the application thereof, or on any provisions of the Dutchess County Charter, all of which shall remain in full force and effect.

SECTION 8. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Office of the Secretary of State of the State of New York.

McKinney's Consolidated Laws of New York Annotated
Agriculture and Markets Law (Refs & Annos)
Chapter 69. Of the Consolidated Laws
Article 26. Animals (Refs & Annos)

McKinney's Agriculture and Markets Law § 353-b

§ 353-b. Appropriate shelter for dogs left outdoors

Effective: November 21, 2003
Currentness

1. For purposes of this section:

(a) "Physical condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) "Inclement weather" shall mean 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.

(c) "Dogs that are left outdoors" shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2. (a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

Credits

(Added L.2003, c. 594, § 1, eff. Nov. 21, 2003.)

McKinney's Agriculture and Markets Law § 353-b, NY AGRI & MKTS § 353-b
Current through L.2014, chapters 1 to 552.