

LOCAL LAW FILING

COUNTY OF DELAWARE

Local Law No. 15 of the Year 2021

**LOCAL LAW OF THE COUNTY OF DELAWARE, NEW YORK, TO BE KNOWN AS THE
“DELAWARE COUNTY ANIMAL ABUSER REGISTRY” PROTECTING ANIMALS FROM
ABUSE BY ESTABLISHING A REGISTRY FOR ANIMAL ABUSER.**

BE IT ENACTED by the Delaware County Board of Supervisors (“Board”) as follows:

Section 1. Title.

This Local Law shall be known as “Delaware County Animal Abuser Registry Law.”

Section 2. Board Findings.

The Board finds and determines that animal cruelty is a serious concern for Delaware County and its citizens. The criminal statutes are helpful in deterring cruelty to animals but unfortunately cruelty to animal offenses still occur in Delaware County and throughout New York State.

It is the Board’s goal to reduce the number and frequency of animal cruelty offenses occurring in Delaware County. In order to further that goal the Board believes that identifying individuals who are convicted of animal cruelty charges and limiting their access to animals could reduce the likelihood of future animal cruelty offenses.

The Board determines that it is in the best interest of the residents of Delaware County and their animals that an online registry be established identifying individuals residing in Delaware County who have been convicted of animal abuse crimes with the purpose of prohibiting these individuals from adopting, purchasing, or otherwise obtaining animals from any animal shelter, pet dealer, or other person or entity involved in the exchange of animals by adoption, sale, or other means.

Section 3. Definitions.

As used in this local law, the following terms shall have the meanings indicated:

“Animal Abuse Crime” – Any of the following crimes:

(a) A violation of any of the following provisions of the NYS Agriculture Markets Law (“AML”) Article 26:

Section 351 – Prohibition of animal fighting

Section 353 – Overdriving, torturing and injuring animals; failure to provide proper sustenance

Section 353-a – Aggravated cruelty to animals

Section 355 – Abandonment of animals

Section 356 – Failure to provide proper food and drink to impounded

animal

Section 359 – Carrying animal in a cruel manner

Section 360 – Poisoning or attempting to poison animals

Section 361 – Interference with or injury to certain domestic animals

Section 362 – Throwing substance injurious to animals in public place

Section 365 – Clipping or cutting the ears of dogs

Section 366 – Companion animal stealing

Section 366-a – Removing, seizing or transporting dogs for research purposes

(b) Sexual misconduct with an animal in violation of NYS Penal Law (“PL”) §130.20(3)

(c) Harming a service animal in violation of PL §242.10 and §242.15

(d) Killing or injuring a police animal in violation of PL §195.06

(e) Harming an animal trained to aid a person with a disability in violation of PL §195.12

(f) Any conviction of a crime based upon a reduced charge when the original offense was a charge listed in Section 3 (a) – (e) above.

“Animal Abuse Offender” – Any person eighteen (18) years of age, or older, convicted of an Animal Abuse Crime, except youthful offenders whose convictions or adjudications include sealed records.

“Animal Abuser Registry” – The on-line registry established by this Local Law for registering any person residing in Delaware County convicted of an Animal Abuse Crime.

“Animal Shelter” – Any public or privately owned organization including, but not limited to, any duly incorporated humane society, pound, animal protective association or animal rescue group which maintains buildings, structures, or other property for the purpose of harboring animals which may be stray, unwanted, lost, abandoned, or abused and seeks to find appropriate temporary or permanent homes for such animals.

“Companion Animal or Pet” – Any dog or cat or any other domesticated animal normally maintained in or near the household of the owner or person who cares for such domesticated animal. It shall not include a Farm Animal.

“Conviction” – An adjudication of guilt by any court of competent jurisdiction whether upon verdict after trial, plea of guilty, or nolo contendere plea.

“Farm Animal” – Any ungulate (a hooved mammal), poultry, species of cattle, sheep, swine, goats, llamas, horses or fur bearing animals (as defined in the Environmental Conservation Law §11-1907) which are raised for commercial or subsistence purposes. Fur bearing animals shall not include dogs or cats.

“Pet Dealer” – (1) Any person or entity that engages in the sale or offers to sell more than nine (9) dogs and/or cats per year to the public; or (2) If the dogs and/or cats being sold or offered to be sold were born and raised on the premises of the person or entity who bred the dogs and/or cats that person or entity is considered a Pet Dealer if he/she/it engages in the sale or offers to sell twenty-five (25) or more dogs and/or cats per year to the public; (3) An Animal Shelter shall not be considered a Pet Dealer.

“Service Animal” – Any animal that has been partnered with a person who has a disability (as defined in Executive Law §292(21)) and has been trained or is being trained, by a qualified person, to aid or guide a person with a disability.

Section 4. Establishing an Animal Abuser Registry

The Delaware County Sheriff, or his/her designee, is hereby authorized, empowered and directed to establish an on-line Animal Abuser Registry that shall contain the names and residence information of all available Animal Abuse Offenders living in Delaware County who are convicted of an Animal Abuse Crime on or after the effective date of this law. The on-line Registry will be maintained by the Delaware County Sheriff's Office and shall be listed on the Delaware County website within a Delaware County Sheriff's Office web page. The on-line Animal Abuser Registry shall also contain links to other county Animal Abuser Registries that are available, or as they become available in the future, in the state of New York, with such other county registries to be used as informational resources by Animal Shelters or Pet Dealers located in Delaware County when they shall sell, exchange or otherwise transfer the ownership of any Companion Animal or Pet.

The registry shall contain the required information about each Animal Abuse Offender for a period of seven (7) years following his or her release from incarceration or, if not incarcerated, from the date of the judgment of conviction. Any currently or previously registered Animal Abuse Offender convicted of a subsequent Animal Abuse Crime shall be placed on the Animal Abuser Registry for life following the second conviction. Upon notification to the Delaware County Sheriff's Office of a successful appeal of a conviction of an Animal Abuse Crime by an individual that has been required to register pursuant to this Local Law, the registration information for that individual shall be removed from the Delaware County Animal Abuser Registry within five (5) days following the notification.

Section 5. Registry Requirements.

(A) All Animal Abuse Offenders who reside in Delaware County and who are convicted of an Animal Abuse Crime on or after the effective date of this Local Law must register with the Delaware County Animal Abuser Registry within five (5) days of their release from incarceration or, if not incarcerated, from the date of the rendering of judgment. The registration requirements of this section shall be applicable for seven (7) years following the Animal Abuse Offender's release from incarceration or the date sentencing was rendered, whichever is later, and any Animal Abuse Offender who is convicted of a subsequent Animal Abuse Crime the registration requirements of this section shall apply for life following a second conviction.

(B) When a person is convicted of an Animal Abuse Crime, the prosecuting agency shall forward to the Sheriff's Office the name and address of the convicted person along with the name of the Animal Abuse Crime the person was convicted of, thereby notifying the Sheriff's Office that the person is required to register with the Animal Abuser Registry.

(C) Each person required to register with the Animal Abuser Registry shall submit to the Delaware County Sheriff's Office:

- (i) Their name and any aliases they may be known by;

- (ii) Their residence address;
- (iii) Their date of birth; and
- (iv) A photograph of the front of their head and shoulders not less than 2" x 3" or a digital image commonly known as a digital photograph of the front of their head and shoulders.

(D) Within twenty (20) days of the anniversary date of the date an individual originally registered with the Animal Abuse Registry said individual must personally appear at the Delaware County Sheriff's Office. The individual must confirm the accuracy or change the information provided pursuant to Section 5(C) (i), (ii) and (iii) above and must provide a new photograph in compliance with Section 5(C) (iv) above. The individual must comply with this Section 5(D) every year the individual remains on the Animal Abuser Registry.

(E) Every person required to register with the Animal Abuser Registry shall update their registry information within five (5) days of any change of residential address and/or upon any official change of name.

(F) Every person required to register with the Animal Abuser Registry shall pay a onetime fee of one hundred twenty-five (\$125.00) dollars to the Delaware County Sheriff's Office at the time of registration. All such fees shall be used to help pay the administrative and maintenance costs of maintaining the registry. In the event that a person is financially incapable of paying the registration fee said individual can make an application to the Delaware County Sheriff to waive the fee. The Delaware County Sheriff will investigate the application and shall have the sole discretion to grant or deny the application.

(G) The Delaware County Sheriff is hereby authorized and empowered to promulgate such rules and regulations as may be necessary to implement the Animal Abuser Registry.

Section 6. Prohibition on Contact with Animals.

No person who is registered or required to register pursuant to Section 5 of this Local Law shall own, possess, reside with, have custody of, or intentionally engage in any physical contact with any Companion Animal or Pet.

Section 7. Animal Shelters and Pet Dealers Prohibited from Transferring Animal Ownership to Animal Abuse Offenders.

No Animal Shelter or Pet Dealer located in Delaware County shall sell exchange or otherwise transfer the ownership of any Companion Animal or Pet to any person having a residence in Delaware County and listed as an Animal Abuse Offender on the Animal Abuser Registry. Prior to the sale, exchange, or other transfer of ownership of any Companion Animal or Pet, the Animal Shelter or Pet Dealer is required to examine the Animal Abuser Registry to confirm that the name of the potential owner of the Companion Animal or Pet is not listed. In the event an entity or individual subject to this Section 7 cannot access the Animal Abuser Registry they can call the Delaware County Sheriff's Office at (607) 746-2336 to confirm whether or not the name of a potential owner appears on the Animal Abuse Registry.

This section shall not apply to Farm Animals for farmers or to Service Animals for people with disabilities.

Section 8. Penalties.

(A) Any Animal Abuse Offender required to register with the Animal Abuser Registry who fails to so register shall be guilty of a misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed two thousand (\$2,000.00) dollars.

(B) Any Animal Abuse Offender who violates the prohibition against possessing, owning, adopting, or purchasing a Companion Animal or Pet – except for Farm Animals for farmers, and Service Animals for people with disabilities – shall be guilty of a misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed five thousand (\$5,000.00) dollars.

(C) Any Animal Shelter or Pet Dealer that violates Section 7 of this Local Law shall be guilty of a violation and subject to a fine not to exceed five thousand (\$5,000.00) dollars. A first time violation of Section 7 of this Local Law shall not subject an Animal Shelter or Pet Dealer to a fine but all subsequent violations shall subject said entity or individual to prosecution and fine. It shall not be a violation of this Local Law if the Animal Shelter or Pet Dealer checked with the Delaware County Animal Abuser Registry and the name did not appear thereon.

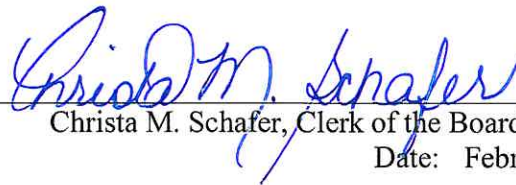
Section 9. Severability.

If any clause, sentence, paragraph, section, subdivision or other part of the 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 limited by such order or judgment.

Section III. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

I hereby certify that the local law annexed hereto, designated as Local Law No. 15 of 2021 of the County of Delaware was duly passed by the Board of Supervisors on February 24, 2021, and was approved. Such local law was not subject to permissive referendum in accordance with the applicable provisions of law.

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 above.



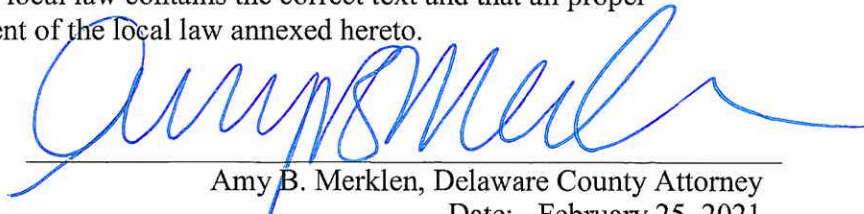
Christa M. Schafer, Clerk of the Board of Supervisors

Date: February 25, 2021

(Seal)

STATE OF NEW YORK
COUNTY OF DELAWARE

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.



Amy B. Merklen, Delaware County Attorney

Date: February 25, 2021