

A Local Law to Strengthen Animal Welfare and Cruelty Prevention as well as Consumer-Breeder-Broker responsibility in Montgomery County

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Section 1: Purpose

Animal cruelty is a serious problem, resulting in the abuse of thousands of animals each year in the United States. While New York State has criminalized the cruel treatment of animals, animal abuse and hoarding continue to occur in Montgomery County and throughout the State. In addition this law will include Consumer, breeder and broker responsibility.

It is important to insure that pets in Montgomery County are raised and maintained in a safe and healthy manner. This is of great interest because so many residents of Montgomery County invest so much financially and emotionally in their companion animals.

Additionally, it is statistically true that individuals who abuse animals are more likely to commit violent acts against humans and research has shown a strong correlation between individuals who abuse animals with incidents of domestic violence.

Therefore the purpose of this law is to enact legislation in Montgomery County, in addition to existing state regulations, that sets a reasonable framework to further protect consumers, animals and potential human victims of animal abusers.

Section 2: Definitions

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

- A. **Adoption** – the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered, or any cat.
- B. **Animal Control Officer** – any individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.
- C. **Animal Shelter** – any non-profit 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 **whether or not a fee is charged for such adoption.**
- D. **Breeder** – any person who displays, offers for sale, sells, barter or exchanges for nominal consideration dogs or she has bred on his or her own premises.
- E. **Broker** - any person who displays, offers for sale, sell, barter or exchanges for nominal consideration dogs he or she has purchased from a breeder.
- F. **Consumer** – Any individual purchasing a dog or cat from a pet dealer.
- G. **Department** – The Department of Consumer Affairs (Weight and Measures).
- H. **Harbor** - means to provide food or shelter to any animal.
- I. **Housing Facility** – a structure that provides animals with shelter, protection from the elements and protection from extremes of temperature. A housing facility may contain primary enclosures as defined in this section.
- J. **Municipality** – means any county, town, city and village.
- K. **Person** – shall mean natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.
- L. **Pet Dealer** – means any person in Montgomery County who engages in the sale or offering for sale of more than nine dogs or cats per year to the public for profit. Such definition shall include breeders who sell or offer to sell dogs or cats; provided that a breeder who sells or offers to sell directly to the consumer fewer than fifteen (15) animals per year that are born and raised on the breeders residential premises shall not be considered a pet dealer as a result of selling or offering to sell such cats and dogs. **This definition shall also not include animal shelters.**
- M. **Primary Enclosure** – a structure that restricts an animal’s ability to move in a limited amount of space, most commonly a cage, kennel, room or other enclosed compartment.

Section 3. Enforcement.

The provisions of this local law shall be enforced by Montgomery County Department of Weights and Measures which shall act as Montgomery County's Department of Consumer Affairs).

Section 4. Inspection of Pet Dealer, Breeders and/or Brokers.

1. The Department of Consumer Affairs or his or her authorized agents shall make inspections at the discretion of the Department or whenever a complaint warrants such investigation to ensure compliance with the provisions of this local law. These agents may include an Animal Task Force which may consist of a representative from a local animal shelter and the local dog enforcement officer for the municipality where the complaint originated accompanied by a sheriff's deputy.

Section 5. Pet Dealers, Breeders and/or Brokers – Minimum Standards of Care.

1. Food and Water.
 - a. Feeding and Watering.
 - i. Animals shall be provided with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.
 - ii. Dogs and cats shall be adequately fed at intervals not to exceed twelve hours or at least twice in any twenty-four hour period in quantities appropriate for the animal species and age, unless determined otherwise by and under the direct supervision of a duly licensed veterinarian.
 - iii. Sanitary food receptacles shall be provided in sufficient number, of adequate size, and located so as to enable each animal in the cage or primary enclosure to be supplied with an adequate amount of food.
 - iv. Animals shall be provided with constant access to clean, fresh water, supplied in a sanitary manner sufficient for its needs, except where there are instructions from a duly licensed veterinarian to withhold water for medical reasons.

2. Housing.

- a. Except where dogs are permitted to roam freely inside the pet dealer and/or breeder's residential premises, dogs shall be kept in primary enclosures that are designed and constructed to be structurally sound and that are kept in good repair.
 - i. Surfaces shall have an impervious surface which does not permit absorption of fluids and which can be thoroughly and repeatedly cleaned and disinfected without deteriorating or retaining odors.
- b. Primary enclosures or cages housing dogs shall provide sufficient space 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. If the flooring is constructed of metal strands, such strands must be greater than one eighth inch in diameter (nine gauge) and be coated with a material such as plastic or fiberglass, and shall be constructed so as not to allow passage of any part of an animal's foot through any opening on the floor of the enclosure. The flooring must be in good repair and must not sag or bend between structural supports. The interior height of the primary enclosure shall be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.
- c. All dogs over twelve weeks of age housed in primary enclosures must be provided with a minimum amount of floor space in the primary enclosure, calculated as follows:
 - i. Measure in a straight line from the tip of the dog's nose to the base of its tail in inches. Add six inches to this number.
 - ii. Required floor space in square inches=The calculation is: (length of dog in inches + 6) multiplied by itself equals the required floor space in inches.
 - iii. Required floor space in square feet= (Required floor space in inches)/144 = required floor space in square feet.
 - iv. For a second dog placed in the primary enclosure the required floor space shall be doubled. The floor space shall be calculated using the longest dog. For each dog above two, the required floor space shall be multiplied by 1.5 per additional dog.
- d. For all dogs, primary enclosures shall not be stacked more than two rows high, and the bottom of the uppermost primary enclosure may not be more than four and one-half feet of the housing facility floor. Where the primary enclosures are stacked, a tray or other device that will prevent urine, feces, and other debris from passing into or being discharged into the underlying primary enclosure shall be placed under the primary enclosure. The tray or other device must be impermeable water and capable of being easily sanitized.
- e. All housing facilities shall be equipped with a smoke alarm and shall have a means of fire suppression, such as fire extinguishers or sprinkler system on premises.
 - i. Housing facilities shall be adequately ventilated at all times to provide for the health and well-being of the animal. Ventilation shall be provided by natural or mechanical means, such as windows, vents, fans or air conditioners. Ventilation

shall be established to minimize drafts, odors, ammonia levels and moisture condensation.

- ii. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and humidity based on the pet's breed and behavioral characteristics. In accordance with the American Kennel Club, animals must be provided with (1) cool air or increased ventilation if the ambient temperature is above 85 degrees Fahrenheit or (2) heat if the temperature falls below 45 degrees Fahrenheit. A veterinarian can certify the need for additional limits for specific short haired breeds, animals that are sick, aged, or very young that may not be able to tolerate the 45 degree or 85 degree temperature limits.

Shade from sunlight shall be provided by natural or artificial means.

- iii. Indoor facilities housing animals shall have adequate lighting sufficient to permit routine inspection and cleaning and arranged so that each animal is protected from excessive illumination that poses a health hazard to the animal.
- iv. The indoor and outdoor facilities housing the dog or cat, including the primary enclosure or cage shall be kept in a clean and sanitary condition in order to provide animals with a safe and healthy living environment. They shall be designed to allow for efficient elimination of waste and water in order to keep the animal dry and prevent it from coming into contact with these substances. If drains are used, they shall be constructed in a manner to minimize foul odors and backup of sewage. If a drainage system is used, it shall comply with federal, state, and local laws relating to pollution control.

- f. In the event that a pet dealer and/or breeder has a pregnant or nursing dog on his or her premises, the pet dealer and/or breeder shall provide a whelping box for such dog. Each nursing dog shall be provided with an additional amount of floor space based on her breed and behavioral characteristics in accordance with generally accepted husbandry practices as determined by a licensed veterinarian.

- g. Pet dealer and/or breeders shall designate and provide an isolation area for the animals that exhibit symptoms of or are known to be harboring a contagious disease or illness. This designated area must be in a location that prevents or reduces the spread of disease or illness to healthy animals and must otherwise meet all housing requirements of this section.

3. Sanitation.

- a. Excreta, feces, hair, dirt, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent an accumulation of excreta, feces, hair, dirt, debris, and food waste to prevent soiling of dogs contained in the primary enclosures and to reduce the risk of disease, insects, pests, and odors.

- i. Housing facilities and primary enclosures contained within those facilities shall be kept in a clean and sanitary condition in order to maintain a safe and healthy

environment for the animal. This shall include removing and destroying, where appropriate, any agents injurious to the animals and periodic cleanings.

ii. Primary enclosures must be cleaned daily and sanitized at least once a week using one of the following methods:

1. Live steam under pressure;
2. Washing with water with a temperature of at least 180 degrees Fahrenheit and soap or detergent;
3. Washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfectant product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste so as to remove all organic and mineral buildup and to provide sanitization, followed by a clean water rinse.

iii. Under no circumstances shall a dog or cat remain inside the primary enclosure or cage while it is being cleaned with live steam, sterilizing agents or agents toxic to the animal or cleaned in a manner likely to threaten the health and safety of the animal. Trash and waste products on the premises shall be properly contained and disposed of so as to minimize the risks of disease, contamination and vermin.

b. Used primary enclosures and food and water receptacles for dogs must be cleaned and sanitized before they can be used to house, feed, or water another dog or group of dogs.

c. Premises where primary enclosures are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect dogs from injury, to facilitate healthy practices and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grass, and bushes must be controlled so as to facilitate cleaning of the premises and pest control and to protect the health and well-being of the dogs.

d. An effective program for the control of insects, external parasites affecting dogs or pets must be established, as recommended by a licensed veterinarian, and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in housing facilities.

4. Flooring.

a. Flooring in primary enclosures must be constructed in a manner that protects the dogs' feet and legs from injury.

b. For dogs over twelve weeks of age, the floor of the primary enclosure must be strong enough so that it does not sag or bend between structural supports and so that it cannot be destroyed through digging or chewed by the dogs housed in the primary enclosure. The floor shall not permit the feet of any dog housed in the primary enclosure to pass through any opening and shall not be made of metal strand whether

or not it is coated. It must allow for moderate drainage of fluids and it must not be sloped more than 0.25 inches per foot.

- c. Flooring constructed of slats shall be acceptable provided that all of the following conditions are met:
 - i. The flooring is flat;
 - ii. Spaces between slats run the length or width of the floor, but not both;
 - iii. Slats are no less than 3.5 inches in width;
 - iv. The floor has spaces between the slats that are no more than 0.5 inch in width; and
 - v. Each slat is level with the slat next to it within a single primary enclosure.

5. Co-housing/Bitches in Heat/Nursing puppies.
 - a. Not more than six adult dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under twelve weeks of age may not be housed in the same primary enclosure with adult dogs, other than the dam or foster dam. Dogs displaying vicious or aggressive behavior toward other dogs must be housed separately.
 - b. Each bitch with nursing puppies shall be provided with an additional amount of floor space based on her breed and behavioral characteristics and in accordance with generally accepted husbandry practices as determined by the attending veterinarian.
 - c. The bitches need to be at least two years old at the first breeding and at 6 years they should not be bred anymore.

6. Veterinary Care and Records.
 - a. The Pet Dealer and/or Breeder shall designate an attending Veterinarian.
 - b. The Veterinarian shall establish a written program of veterinary care which shall include a physical examination and vaccination schedule; a protocol for disease control and prevention; pest and parasite control; nutrition; and euthanasia. A copy of the program shall be kept in the Dog Source Breeder's records.
 - c. For each dog or cat harbored by a Breeder and/or Dealer, a permanent record shall be kept and shall contain all of the following information:
 - i. The date of birth of the dog or cat;
 - ii. The date of vaccination of the dog or cat; and
 - iii. The date of the dog's or cat's last veterinarian check.
 - d. All veterinarian records shall be kept for two years after the dog has left the care of the facility.

7. Exercise (for dogs over twelve weeks of age).

- a. The exercise area must be a minimum of: small dogs up to 10 lbs. 6'x10', medium dog up to 30 lbs. 6'x15' and large dogs over 30 lbs. 20'x15'
- b. Exercise area fencing must be in good repair and be free of rust, jagged edges, or other defects that could cause injury to the dogs.
- c. The exercise area must be cleaned in accordance with paragraph (3) of subdivision three of this section.
- d. Nursing bitches and their puppies shall be exercised separately from other dogs.
- e. The exercise area shall be on ground level and the ground of the area must be solid and maintainable. Surfaces such as gravel, packed earth, and grass which are solid and maintainable may be utilized.
- f. If, in the opinion of a licensed veterinarian, it is inappropriate for a dog to exercise because of its health, condition, or well-being, this paragraph shall not apply to that dog. Such a determination must however be documented in writing by a veterinarian and shall be revisited by the attending veterinarian as the veterinarian deems necessary.

Section 6. Certification by Pet Dealers and Breeders Required.

1. It shall be unlawful for any pet dealer Broker and/or breeder in Montgomery County to knowingly import, offer for sale, sell or barter any dog from a breeder that does not comply with the standards of care enumerated in this local law.
2. Pet Dealers and/or breeders who supply dogs directly to pet dealer and/or breeders shall provide a written certification to such pet dealer and/or breeders that the dogs it provides to them have been obtained from source breeders where they have been raised and maintained in a "safe and healthy manner" as prescribed by this Local Law.

Section 7. Violations.

1. Unless as otherwise provided herein, a violation of any provision of this local law is a civil offense for which a fine of not less than fifty and not more than five hundred dollars per violation may be imposed.

Section 8: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 9. Construction with Other Laws.

Nothing in this code shall be construed to limit or restrict the police or agents or officers of societies for the prevention of cruelty to animals from enforcing Article Twenty-Six of the Agriculture and Markets Law or any other law relating to the humane treatment of or cruelty to animals.