

**COUNTY OF ERIE**

**LOCAL LAW INTRO. NO. 1 - 2013**

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A local law to establish "An Animal Abuse Registry in Erie County"

Be it enacted by the Legislature of the County of Erie as follows:

**SECTION 1. LEGISLATIVE INTENT.**

Animal cruelty is a serious problem resulting in abuse of thousands of animals each year. Recent instances of animal abuse have demonstrated that it can occur anywhere. Available research indicates that those who abuse animals are statistically more likely to do so again or commit other violent crimes. While New York State law criminalizes animal abuse, such conduct continues to occur in Erie County and in the rest of New York State. The Legislature finds that animals in need of homes need protection from potential abusers and that further action is required to achieve that goal. Other communities have taken action to prevent animals from being exposed to abusers, but New York State and Erie County have not yet taken action. This statute is intended to protect both animals and potential human victims of animal abusers.

It is in the best interest of Erie County residents and their animals that a local law be established to create an animal abuse registry. The registry would identify individuals in Erie County who have been convicted of an animal abuse crime in order to prevent those individuals from adopting, purchasing or otherwise obtaining animals from any animal shelter, pet seller or other person or entity involved in the exchange of animals by adoption, sale or other means.

**SECTION 2. DEFINITIONS.**

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

- A. An "animal" shall have the meaning as defined by the New York State Agriculture and Markets Law article 26, Section 350(1) but the term "animal" shall not include fish or other aquatic creatures.
- B. A "farm animal" shall have the meaning as defined by the New York State Agriculture and Markets Law article 26, Section 350(4) and this local law shall not apply to farm animals except as to horses.
- C. "Animal abuse crime"
  - a. A violation of any provision of the New York State Agriculture and Markets Law (AML) article 26, to wit: Agriculture and Markets Law §351, 353, 353-a,

353-b, 354, 355, 356, 357, 358, 358-a, 359, 359-a, 360, 361, 362, 363, 364, 365, 366, 366-a, 368, 369 and 370

- b. Sexual misconduct with an animal in violation of New York State Penal Law (PL) §130.20(3)
- c. Harming a service animal in violation of PL §242.10 and PL §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

D. "Animal abuse offender" – Any person convicted of an animal abuse crime.

E. "Animal abuse registry" – An online registry established by this local law for registering any person residing in Erie County convicted of an animal abuse crime.

F. "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.

G. "Pet seller" – Any individual, person, partnership, firm, corporation or other entity which offers animals for sale or is engaged in the sale, exchange or other transfer of ownership of animals.

### **SECTION 3. ESTABLISHING AN ANIMAL ABUSE REGISTRY.**

- A. An online registry shall be established containing the name, residence address, birthdate and face photo of each animal abuse offender residing within Erie County together with the date of each conviction for an animal abuse crime.
- B. The registry shall contain the required information about each animal abuse offender for a period of five (5) years following his or her release from incarceration or, if not incarcerated, from the date of the judgment of conviction. Any animal abuse offender convicted of a second animal abuse crime shall be placed on the animal abuse registry for an additional period of ten (10) years.
- C. The Erie County Sheriff's Office is authorized to and shall negotiate an agreement (to be executed by the Erie County Executive) with the Erie County SPCA, or similar agency, to establish and maintain an online animal abuse registry in Erie County.
- D. The Erie County Sheriff's Office is authorized to promulgate such rules and regulations as may be necessary to implement this local law.

#### **SECTION 4. REGISTRATION REQUIREMENTS FOR THOSE CONVICTED OF AN ANIMAL ABUSE CRIME.**

- A. Any person who has been convicted of an animal abuse crime on or after the effective date of this local law must register with Erie County's animal abuse registry within 30 days of his or her release from incarceration resulting from such conviction or from the date of judgment of conviction if no incarceration was ordered.
- B. Each animal abuse offender is required to register with the animal abuse registry and shall provide his or her:
  - a. Full name
  - b. Address of residence
  - c. A recent face photo
  - d. Date of birth
- C. Each animal abuse offender shall update his or her registry information annually and within 30 days of a change of his or her address.
- D. Each animal abuse offender shall pay an annual fee of fifty dollars (\$50), for so long as he is required to be so registered, to the Erie County Sheriff's Office for the administrative and maintenance costs of the registry.
- E. An "animal abuse offender" or "pet seller" is presumed to know his obligations under this law.

#### **SECTION 5. PROHIBITION AGAINST THE PURCHASE OF ANIMALS BY AN ANIMAL ABUSE OFFENDER AND PROHIBITION AGAINST SALES OR TRANSFERS TO AN ANIMAL ABUSE OFFENDER.**

- A. During the period when an animal abuse offender is required to be registered on the animal abuse registry, the animal abuse offender is prohibited from possessing, adopting, owning, purchasing or exercising control over any animal.
- B. No animal shelter or pet seller located in Erie County shall sell, exchange or otherwise transfer the ownership of any animal to an animal abuse offender listed on the animal abuse registry.
- C. Prior to the sale, exchange or other transfer of ownership of any animal, an animal shelter or pet seller is required to examine the animal abuse registry to confirm that the name of the potential owner of the animal is not listed as having been convicted of an animal abuse crime.
- D. Any person required to and who has already registered pursuant to this law, may, but no earlier than three months following such registration, apply to the court in which the person was last convicted of an animal abuse crime, for suspension of the provisions of

this law barring such individual from possessing, adopting, owning, purchasing or exercising control over any animal.

## **SECTION 6. PENALTIES.**

- A. Failure to register: Any animal abuse offender who fails to register pursuant to Section 4 above and/or update his or her information annually or within 30 days of having moved, shall be guilty of a violation punishable by a fine not to exceed five hundred dollars (\$500) for each day beyond which they have failed to timely register or update their information as required by Section 6 herein.
- B. Purchase of an animal while on the animal abuse registry: Any animal abuse offender who violates the prohibition contained in Section 5 against possessing owning, adopting, purchasing or exercising control over an animal shall be guilty of a violation punishable by a fine not to exceed one thousand dollars (\$1,000).
- C. Prohibited sale of an animal to an animal abuse registrant: Any animal shelter or pet seller located in Erie County that violates Section 5 shall be guilty of a violation and subject to a fine not to exceed one thousand dollars (\$1,000). It shall be an affirmative defense that the animal shelter or pet seller checked with the animal abuse registry and the name of the person to whom they sold or transferred an animal did not appear thereon.

## **SECTION 7. 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 local law or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Erie. The County legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

## **SECTION 8. EFFECTIVE DATE & APPLICABILITY.**

This local law shall take effect ninety (90) days subsequent to filing in the Office of the Secretary of State pursuant to section 27 of the Municipal Home Rule Law and shall apply to all transactions and conduct occurring on or after the effective date of this local law.

## **SECTION 9. SEVERABILITY.**

If any clause, sentence, paragraph, subdivision, section or part of this local 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 of 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 Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**SPONSORED BY:**

Legislator Terrence D. McCracken  
Legislator Betty Jean Grant  
Legislator Thomas J. Mazur  
Legislator Lynn M. Marinelli  
Legislator Thomas A. Loughran  
Legislator Timothy R. Hogue

