

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

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STATE RECORDS

DEC 30 2016

DEPARTMENT OF STATE

County
City of Essex
Town
Village

Local Law No. 3 of the year 2016

A local law A Local Law regulating the outdoor restraint of dogs for the County of Essex.

Be It enacted by the Board of Supervisors of the
(Name of Legislative Body)

County
City of Essex as follows:
Town
Village

"PROPOSED ESSEX COUNTY LOCAL LAW NO. 3 OF 2016"

A local law regulating the outdoor restraint of dogs for the County of Essex.

BE IT ENACTED by the Board of Supervisors of the County of Essex, New York as follows:

Section 1. Title.

This local law shall be known and cited as "Essex County Local Law No. 3 of 2016 - A Local Law Regulating the Outdoor Restraint of Dogs for the County of Essex."

Section 2. Enactment.

This local law is adopted pursuant to the authority granted the County of Essex pursuant to Section 10 of the Municipal Home Rule Law of the State of New York.

Section 3. Purpose.

By adoption of this local law, the County of Essex declares its intent to regulate and control the outdoor confinement of dogs restrained or kept on property located within the County. The Essex County Board of Supervisors has determined that the practice of tethering or fastening a dog out of doors for a prolonged period to a stationary object, including but not limited to a structure, pole, or tree is inhumane and presents a threat to the safety and well-being of the dog. Dogs tethered to a fixed point are also more likely to become aggressive and present a threat to human beings as well as other animals. Tethers, chains and other restraints can also injure dogs, as the restraint may tangle or catch on other objects.

The Board is aware that animals tied to a stationary object outside for extended periods of time are also frequently the victims of other forms of neglect including insufficient food and/or water, or inadequate shelter. Furthermore, dogs confined for long periods of time often vocalize to signal their distress and thereby disrupt the peace and quiet of the community.

All dogs need the opportunity to exercise and engage in normal social behaviors. Indefinite long term confinement of any dog by any means of constraint is generally considered to be inhumane and unacceptable.

Therefore, this Board finds that it is in the best interest of the residents of Essex County, as well as their dogs to ensure the safety of all by regulating the manner in which a dog may be restrained outdoors.

Section 4. Definitions.

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

- a. "Tether" shall mean to restrain a dog by attaching the dog to any stationary object, or structure, including without limitation, a house, building, tree, fence, post, garage, shed, stake, lawn spike or any fixed point whatsoever, by any means, including without limitation, a chain, rope, cord, leash, overhead dog run, or trolley system. Tethering does not include the use of a leash while walking a dog.
- b. "Person" shall mean any individual, firm, partnership, corporation, company, society, association or any organized group of persons whether incorporated or not.
- c. "Owner" shall mean any person who harbors or keeps any dog. In the event any dog involved in this local law shall be owned by a person under eighteen years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the household in which said person resides). This shall also include any agent, representative or person responsible for the care and welfare of any dog.
- d. "Harbor" means to provide food, water, shelter, care or to be responsible for any dog.
- e. "Weather alert" shall mean a National Weather Service warning for heat advisory, frigid weather, snow or ice storm, tornados, tropical storms, high winds, thunderstorms or other adverse weather conditions.
- f. "Dog" shall mean any male or female, licensed or unlicensed member of the species *canis familiaris* (companion animals).
- g. "County" means the area within the jurisdictional limits of the County of Essex and shall apply to all those areas of the County of Essex.
- h. "Dog enclosure" shall mean an enclosure, fence, pen, invisible fence, or electric fence which includes adequate shelter as defined in Article 26, Section 353-b of the NYS Agriculture and Markets Law, is used to completely contain a dog and allows complete freedom of movement therein within an area which must be at least 100 square feet per dog.

i. "Overhead dog run" or "trolley system" shall mean any overhead system created for the purpose of restraining a dog outdoors by means of a pulley system or trolley system which allows the dog freedom of movement up and down a fixed line. This does not include fixed point attachment.

j. "Fixed point" shall mean attachment to a stationary object or structure, including without limitation, a house, building, tree, fence, post, garage, shed, stake, or lawn spike or any other fixed point whatsoever. An overhead dog run or trolley system or dog enclosure shall not be a "fixed point."

k. "Agricultural working dog" shall mean a type of dog bred for the purpose of protecting livestock from predators, herding livestock and used in any other agricultural setting in the operation of a farm or other similar enterprise and regularly and consistently used for that purpose.

l. "Sled dog" shall mean a dog regularly and consistently used in training or participation in competitive or recreational sled dog activities.

m. "Hunting dog" shall mean a dog bred for the purpose of hunting, in the possession of a licensed hunter, and regularly and consistently used for that purpose.

Section 5. Prohibitions.

A. It shall be unlawful for any person, owner, agent or responsible person to tether, leash, fasten, secure, restrain, chain, confine or tie a dog to any stationary object outdoors or cause such dog to be confined in a manner that:

1. Endangers such dog's health, safety or wellbeing;
2. Restricts such dog's access to suitable and sufficient food and water;
3. Does not provide such dog with shelter appropriate to its breed, physical condition, size and the climate as defined by Section 353-b of the New York State Agriculture and Markets Law;
4. Unreasonably limits the movement of such dog because it is too short for the dog to move around or for the dog to urinate or defecate in a separate area from the area in which it must eat, drink or lie down;
5. Denies such dog the opportunity to exercise and engage in normal social interactions on a regular basis.

B. Notwithstanding the provisions of Section A of this section:

1. Under no circumstances shall a dog be left tethered to a fixed point while the owner, agent or responsible party is not on the premises.
2. No dog shall be left tethered to a fixed point, attached to an overhead dog run, or trolley system or placed in a dog enclosure unattended on vacant or abandoned property.
3. No dog shall be tethered or restrained to a fixed point for a period of time in excess of four (4) continuous hours or eight (8) hours cumulative during any twenty-four (24) hour period while its owner, agent or responsible party is physically present on the premises.

4. No dog shall be tethered to an overhead dog run or trolley system or confined in a dog enclosure for a period of time exceeding twelve (12) hours cumulative in a twenty-four (24) hour period with the exception of hunting dogs, sled dogs, and agricultural working dogs. Dogs may be tethered to an overhead dog run or trolley system or confined in a dog enclosure while the owner, agent or responsible party is not present at their residence provided there is compliance with this local law.

5. Notwithstanding all other provisions of this law, the prohibitions contained in Section 5 shall not apply to dogs restrained in accordance with the regulations of any campground or recreational area, provided those regulations are more stringent than the regulations contained in this local law.

C. Specifications for tethering restraints and enclosures

1. A dog shall not be tethered to a fixed point, running line, pulley or trolley system or any other system by means of a choke, chain or pinch collar. Dogs shall be tethered to such system by means of a harness or collar made of nylon, leather or other durable non-metallic material and must be fitted so as not to cause injury to the animal or embed itself in the animal's neck.

2. All tether systems must be of appropriate configuration to prevent the tether from extending over any object or any ledge that could result in injury or strangulation of the dog, and to prevent the tether from becoming entangled with other objects or animals. All tether systems must be at least 15 feet in length.

3. Any tether, running line or lead line must have sufficient slack to allow a dog to comfortably lie down and perform normal postural movements.

4. Cable or tether shall not exceed more than 10% of the dog's body weight. No logging chains, tow chains or other lines or devices not intended for the purpose of tethering dogs may be used.

5. Any pulley or trolley system must be at least 15 feet in length, mounted at least seven (7) feet, but no more than ten (10) feet off the ground, with a swivel on both ends.

6. Dog enclosures, dog runs, fences, pens and other outdoor enclosures, must meet the following restrictions:

a. Any dog confined within a dog enclosure must have an adequate space for exercise based on a dimension of at least 100 square feet per dog, however in the case of dogs 15 lbs. or smaller, an enclosure may be less than 100 square feet per dog provided that it is deemed adequate for exercise and safety by the enforcing officer. The following are excepted from this requirement:

- (i) All veterinary facilities.
- (ii) Duly incorporated SPCAs and Humane Societies.
- (iii) Municipal animal shelters.
- (iv) Commercial professional boarding facilities that temporarily house dogs for a fee.

b. Dog enclosures shall be constructed of chain link or other secure fencing materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure;

c. Dogs however confined must have access to adequate food and must have continuous access to water and continuous access to shelter at all times, and, in addition, as set forth in Section 353 of the NYS Agriculture and Markets Law.

d. Crates and kennels used for the purpose of temporarily confining or transporting hunting dogs, sled dogs or livestock dogs shall be constructed and sized to provide sufficient space to allow each dog to make normal postural and social adjustments with adequate freedom of movement to maintain physical conditioning. Dogs should be able to sit, stand, turn and lie without obstruction. Adequate space for food and water containers must be provided.

Section 6. Extreme Weather Conditions.

No dog shall be left outdoors during extreme weather conditions such as snow or ice storms, thunderstorms or during extreme cold or heat or during a "weather alert."

Section 7. Enforcement.

This local law shall be enforced by the Office of the Essex County Sheriff and may also be enforced by any police officer, local dog control or animal control officer, New York State Police, New York State humane law officer or investigator within the jurisdiction of Essex County or by any other person or entity designated by resolution by the Essex County Board of Supervisors. Said persons shall have the authority to enforce the provisions of this local law and to issue appearance tickets, obtain supporting depositions and prepare and submit criminal and civil complaints to a court of competent jurisdiction.

Prosecution of violations hereunder shall be conducted by the Essex County District Attorney's Office or any other entity designated by Essex County.

The enforcement officer shall be responsible for the administration and enforcement of this local law and shall act upon any written complaint, or his observation, of an alleged or possible violation of this local law. Any appearance ticket or criminal complaint and supporting deposition for a violation of this local law shall be administered pursuant to the New York State Criminal Procedure Law and shall be heard in a court of competent jurisdiction.

Section 8. Violations and Penalties.

A. Any owner, agent, representative or person in control of a dog who violates this local law shall be guilty of a violation as defined by Section 55.10 of the Penal Law of the State of New York and shall be liable for a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both.

B. For a second offense, the fine may be up to five hundred (\$500.00) or imprisonment for not more than fifteen (15) days, or both.

C. For a third subsequent violation, the fine shall be one thousand (\$1,000.00) and/or imprisonment for not more than fifteen (15) days, or both, surrender of the dog, if ordered by the court, and costs of investigation and prosecution. In addition, all third time offenders, subsequent to the enactment of this local law are required to register as animal abusers at such times that an animal abuse registry is lawfully established.

D. In lieu of or in addition to any other penalty provided for herein, any person violating this local

law shall be subject to a civil penalty enforceable and collectable by the County in the amount of two hundred fifty dollars (\$250.00) for a first offense, five hundred dollars (\$500.00) for a second offense, and one thousand dollars (\$1,000.00) for a third offense. Such penalty shall be collected by and in the name of the County.

E. In addition to the above mentioned penalties and punishment, Essex County may also maintain an action or proceeding in the name of the County in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this local law.

F. Any enforcement officer as herein described or as designated by the Board of Supervisors shall be and hereby is authorized to issue and serve appearance tickets pursuant to Criminal Procedure Law Section 150.20(3) with respect to any violation of this law to any person whom they have reason to believe has violated this law, and shall cause such person to appear before a court of competent jurisdiction. The County reserves the authority to designate additional or substitute enforcement officers at its discretion.

G. Any person may file a complaint with an enforcement officer that a violation of this local law has taken place. The enforcement officer shall promptly record and investigate any such complaint and obtain the necessary supporting depositions. The enforcement officer shall submit the criminal or civil complaint and supporting depositions to a court of competent jurisdiction.

H. All fines collected pursuant to this local law shall be the sole property of Essex County, identified with a separate ledger account number in the budget and shall be used for animal protection education, enforcement and/or for the maintenance of an animal abuse registry as may be lawfully established.

Section 9. Obstruction of Governmental Administration.

No person shall hinder, resist, or oppose the enforcement officer or peace officer when acting pursuant to their duties under this local law or any other persons authorized to administer and enforce the provisions of this law in the performance of their duties. Any person hindering, resisting or opposing these officers shall be prosecuted pursuant to Penal Law Section 195.05, Obstructing Governmental Administration in the second degree.

Section 10. Exceptions.

A dog tethered in compliance with the requirements of a campground area holding shall be exempt from these regulations.

Tethering of a dog for less than fifteen (15) minutes in a public location shall be exempt from this local law.

Section 11. 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, and all other provisions shall remain in full force and legal effect.

Section 12. Effective Date.

This local law shall take effect immediately upon the filing with the Office of the Secretary of State of

the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2016 of the (County)(City)(Town)(Village) of Essex was duly passed by the Board of Supervisors on December 6, 2016 in accordance with the applicable provisions of law.

(Name of legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after

(Name of legislative Body)

disapproval) by the _____ and was deemed duly adopted on _____, 20__,

(Elective Chief Executive Officer*)

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__ and was (approved)(not approved)(repassed after

(Name of legislative Body)

disapproval) by the _____ on _____, 20__. Such local law was submitted

(Elective Chief Executive Officer*)

to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__ and was (approved)(not approved)(repassed after

(Name of legislative Body)

disapproval) by the _____ on _____, 20__. Such local law was subject to

(Elective Chief Executive Officer*)

permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

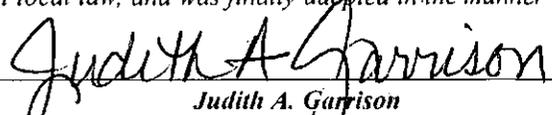
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20 __, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 20__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.



Judith A. Garrison

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

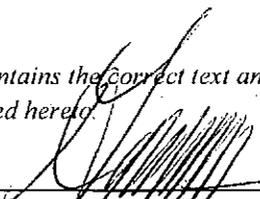
Date: 12-6-16

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK

COUNTY OF ESSEX

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.



Signature **Daniel T. Manning**
Essex County Attorney

County _____
City of Essex
Town _____
Village _____

Date: 12-6-16