

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY OF HERKIMER AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT.

The State of New York has criminalized the cruel treatment of animals. However, animal abuse and cruelty continues to occur in Herkimer County and throughout New York State.

Requiring animal abusers to register with their law enforcement agency will provide members of the community, particularly animal shelters and pet sellers, with the identities of convicted animal abusers. The registry will also warn potential employers that may be looking to hire an individual to work closely with animals in pet shops, shelters, or veterinary offices.

The Herkimer County Legislature hereby finds that it is in the best interest of the residents of Herkimer County and their animals that an online registry be established identifying individuals residing in Herkimer County who have been convicted of animal abuse crimes in order to prevent these individuals from adopting, purchasing or otherwise obtaining animals from any animal shelter or pet seller.

SECTION 2. DEFINITIONS.

As used in this Local Law, the following terms have the meanings indicated:

“Animal Abuse Crime” Any of the following crimes listed in subsections (a) through (e):

- 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 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

“Animal” – Any living mammal (except a human being), bird, reptile, amphibian or fish.

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

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

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

“Conviction” – An adjudication of guilt by any court of competent jurisdiction, whether upon a verdict after trial, upon a plea of guilty, or an Alford Plea.

“Farm” – A business engaged in a farming operation, as defined by New York State Agriculture and Markets Law §301(11).

“Pet Seller” – Any individual, person, partnership, firm, corporation, or other entity which routinely offers Animals for sale or is otherwise routinely engaged in the business of selling, exchanging or otherwise transferring ownership of Animals.

SECTION 3. ESTABLISHING AN ANIMAL ABUSER REGISTRY.

The Herkimer County Sheriff’s Office is hereby directed to create, manage, and maintain an Animal Abuser Registry containing the names and residence information of registered Animal Abuse Offenders living in Herkimer County who are hereby prohibited from owning Animals.

- a) The Herkimer County Sheriff’s Office shall have a link to the Animal Abuser Registry on the Herkimer County Sheriff’s Office webpage, together with the links to other County Animal Abuser registries that are available in the State of New York. Such other County Animal Abusers registries may be used as informational resources by Animal Shelters and Pet Sellers.
- b) The Animal Abuser Registry shall contain the required information about each Animal Abuse Offender, as outlined in Section 4(c) below, for fifteen (15) years following his or her release from incarceration or, if not incarcerated, from the date of the judgement of Conviction.

- c) 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. These Convictions are not limited to Convictions within Herkimer County, but extend to other counties who also maintain an Animal Abuser Registry.
- d) Upon notification to the Herkimer 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 Herkimer County Animal Abuser Registry within five (5) business days following the notification.
- e) The Animal Abuser Registry shall be used for the limited purpose of determining whether such Animal Abuse Offender is prohibited from owning an Animal under this Local Law.
- f) The provisions of Agriculture and Markets Law § 42 shall not apply as it relates to this Local Law. In the event a person acting for or employed by a Farm owner, association or corporation is placed on the Animal Abuser Registry, the prohibition of ownership of Animals shall not extend to the Farm owner, association or corporation for which such person is employed, nor shall it extend to common owners of a Farm in the event one owner is adjudicated to be an Animal Abuse Offender shall be required to register with the Animal Abuser Registry.

SECTION 4. REGISTRATION REQUIREMENTS.

- a) When a person is convicted of an Animal Abuse Crime in any court within Herkimer County, the Herkimer County District Attorney shall forward to the Herkimer County Sheriff's Office the name and address of the convicted person along with the specific Animal Abuse Crime of which such person was convicted, thereby notifying the Herkimer County Sheriff's Office that the person is an Animal Abuse Offender and required to register with the Animal Abuser Registry.
- b) All Animal Abuse Offenders must register with the Animal Abuser Registry within five (5) business days of their release from incarceration or, if not incarcerated, from the date of the Conviction.
- c) Each animal Abuse Offender shall submit to the Herkimer County Sheriff's Office, the following:
 - i.* Their name and any other name by which they may be known;
 - ii.* Their residence address;
 - iii.* Their Date of birth; and
 - iv.* A description of the offense for which such person was convicted, the date of Conviction, and the sentence imposed.

- d) The Herkimer County Sheriff's Office shall photograph the front of the Animal Abuse Offender's head and shoulders
- e) The Herkimer County Sheriff's Office shall update Animal Abuse Offender information on the Animal Abuser Registry when new Convictions are made within Herkimer County and/or when updates to the Registry are provided by Animal Abuse Offenders, and may provide a press release regarding the same, and make it available to:
 - i. Other law enforcement entities within New York State, including Animal Control Agencies, and
 - ii. Animal Shelters, Pet Sellers, animal-welfare organizations, and other groups involved in Animal adoption and the sale of Animals
- f) Every Animal Abuse Offender shall update their Registry information within five (5) days of any change of residence address and/or upon any official change of name. The obligation to provide such updates continues throughout the entire period in which such person is required to be registered.
- g) Every Animal Abuse Offender shall pay a fee of one hundred fifty dollars (\$150.00) to the Herkimer County Sheriff's Office at the time of registration. All such fees shall be used to help pay administrative and maintenance costs of maintaining the Registry. Updates to the Animal Abuser Registry are made at no additional fee.

SECTION 5. EXAMINATION OF REGISRTY.

Prior to the sale, exchange or other transfer of ownership of any Animal, an Animal Shelter, Pet Seller or other person or entity involved in transferring ownership of Animals is encouraged to examine the Animal Abuser Registry of Herkimer County, as well as any other applicable New York County Animal Abuser Registry to confirm that the name of the potential owner of the Animal is not listed as an Animal Abuse Offender, and may contact the Herkimer County Sheriff's Office to confirm a potential owner's identify.

SECTION 6. PENALTIES.

- a) Any Animal Abuse Offender required to register with the Animal Abuser Registry who fails to so register shall be guilty of a class A misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed one thousand dollars (\$1,000.00).
- b) Any Animal Abuse Offender who violates a prohibition against owning an Animal shall be guilty of a class A misdemeanor punishable by incarceration for a period of not more than one (1) year and/or a fine not to exceed five thousand dollars (\$5,000.00).

- c) Any fines collected shall be used by the County towards the care and upkeep of animals through the Herkimer County Humane Society or as otherwise determined by the Herkimer County Legislature.
 - i. It shall not be a violation of this Local Law if an Animal Abuse Offender owns an Animal used as a service animal, either utilized by themselves or by another person residing at the same address as the Animal Abuse Offender. A service animal is to be defined in a manner consistent with Federal or State Law for person with disabilities.
 - ii. It shall be a violation of this Local Law if an Animal Abuse Offender allows the ownership or maintenance of an animal at his or her residence with the ownership of the animal being in the name of a family member or other person residing at the same address as the registered Animal Abuse Offender.

SECTION 7. RULES AND REGULATION.

The Herkimer County Sheriff, or the Herkimer County Sheriff's designee, is hereby authorized and empowered to take such steps as may be reasonably necessary to implement this Local Law.

SECTION 8. SEVERABILITY.

If any clause, sentence, paragraph, section, subdivision or other part of this Local Law or its applications shall be adjudged by a court of competent jurisdiction to be invalidated or unconstitutional, such order or judgement shall not affect, impair, or otherwise invalidate the remainder of this Local Law which shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE.

This Local Law shall apply to those Animal Abuse Offenders with Convictions occurring on or after the effective date of this Local Law.

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Sections 20, 21 and 27 of New York State Municipal Home Rule Law.