

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County City Town Village
(Select one.)

of AUGUSTA

Local Law No. 3 of the year 2019

A local law PROTECTION OF DOGS WITHIN THE TOWN OF AUGUSTA
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of AUGUSTA as follows:

** SEE ATTACHED **

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(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 2019 of the (County)(City)(Town)(Village) of AUGUSTA was duly passed by the TOWN BOARD on October 16 2019, 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to 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 county-wide 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.

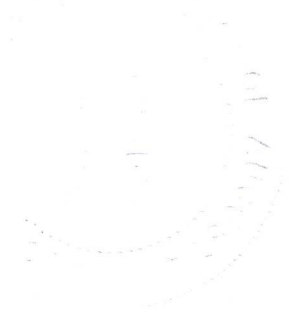
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.

Jouya M. Furrless
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *Oct 16, 2019*

(Seal)



Be it enacted this 16th day of October, 2019 by the Town Board of the Town of Augusta, Oneida County, New York, to be effective upon filing with the Secretary of State.

Suzanne Collins, Supervisor Suzanne M. Collins

James Dowd, Councilman JW Dowd

Dean Kimball, Councilman [Signature]

Richard Ritenour, Councilman [Signature]

Travis Wright, Councilman [Signature]

SEAL



ATTEST Sonya M. Furness
Sonya M. Furness, Town Clerk

TOWN OF AUGUSTA
LOCAL LAW NO 3 2019
PROTECTION OF DOGS

Section 1 **Findings.**

Often referred to as "man's best friend," dogs are companions, valued for the animals' loyal behavioral traits and ability to be kept in close proximity to people in domestic situations. Some dogs are left outdoors without means to protect themselves. These animals are exposed and vulnerable to changing weather conditions. By way of example, dangerous conditions include: temperatures at extreme ends of the spectrum, subzero wind chills, sun, thunderstorms, and high humidity. No dog should be left outside, tethered and exposed to the weather for prolonged periods when the temperature falls below the freezing point of water. With temperatures below the freezing point, a dog may experience harm and damage to its skin, causing pain. Similarly, dogs left outside, tethered and exposed for prolonged periods when the temperature rises to greater than 90° Fahrenheit are believed likely to experience heatstroke or other bodily harm.

Consistent with Municipal Home Rule Law and, this section provides for the health and well-being of dogs in the Town of Augusta by regulating the manner in which dogs may be kept outdoors. This section is intended to provide greater protection for tethered dogs than found within New York State Agriculture and Markets Law §§ 353-b and 353 at the time of adoption. Humane treatment of dogs not only provides these animals with a better quality of life, but may also reduce the likelihood of dogs having harmful behaviors towards other animals. It is believed that most dogs tethered outside for prolonged periods do not have adequate protection.

Specifically excluded from coverage under this section shall be those dogs who are used as working dogs or hunting dogs, as it is believed that the risks of harm to such dogs is not present in the same way.

Section 2 **Prohibition.**

No person who owns or has custody or control of a dog shall knowingly leave such dog tethered outdoors for longer than a period of three continuous hours at such time as when either 1) the actual air temperature is lower than 32° Fahrenheit (not accounting for wind chill), 2) the actual air temperature is greater than 90° Fahrenheit (not accounting for humidity levels), or 3) during such period of time as extreme weather conditions exist, where any such condition in 1), 2), or 3) above is actually known to such person or reasonably should have been known to such person. Actual harm or injury need not be shown to prove a violation of the prohibition in this subsection.

A.) Rebuttable presumptions.

Extreme weather conditions shall be presumed to have been present in the event that a weather alert was in effect for a region reasonably construed and commonly understood to be affecting the region in which the dog was left outdoors and during such time as the dog was left outdoors.

A dog exhibiting signs of frostbite shall be presumed to have been left outdoors for longer than a period of three continuous hours at such time as when the actual air temperature was lower than 32° Fahrenheit.

A dog exhibiting signs of heatstroke shall be presumed to have been left outdoors for longer than a period of three continuous hours at such time as when the actual air temperature was greater than 90° Fahrenheit.

B.) Exceptions.

This section shall not apply to:

- a. Working dogs;
- b. Hunting dogs;
- c. Dogs on a leash or other restraint under direct supervision or control of persons actively engaged in recreational activities, including walking, jogging, or running; and
- d. Dogs required to be tethered under an applicable law, rule, regulation, or court order.

C. Definitions.

For purposes of this section, the terms listed below have specific definitions, as follows:

a. "EXTREME WEATHER CONDITIONS" Includes inclement weather, being weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold, and otherwise consistent with the provisions of New York State Agriculture and Markets Law § 353-b(1)(b), as may be amended from time to time.

b. "WEATHER ALERT" A broadcast of the National Weather Service regarding one of the following weather-related events, reasonably construed to be affecting the region in which the dog was left outdoors: blizzard warning, severe thunderstorm (watch or warning), severe weather statement, tornado (watch or warning), winter storm (watch or warning).

c. “OUTDOORS” shall mean a location outside a permanent structure capable of habitation or occupancy by people during an extreme weather event or period of time with temperatures falling below 32° Fahrenheit or greater than 90° Fahrenheit (depending on the applicable weather conditions), such as a house, apartment building, or office building. Examples of non-suitable outdoor structures include, without limitation, wire cages and non-insulated structures, including those made of plastic (e.g., calf hutch).

d. “TETHER” shall include the actions of leashing, fastening, securing, chaining, tying, or otherwise restraining a dog to any stationary object outdoors

1. “WORKING DOG” Any dog that is trained to herd and/or protect livestock, control bird and/or wildlife populations, or otherwise is actually or has been used in connection with farming or agricultural purposes.

2. “HUNTING DOG” shall mean any dog that is trained to aid in taking of wildlife and is actually or has been used for such purposes, consistent with applicable law or regulation, including Environmental Conservation Law § 11-0923, and local permits

Section 3 **Enforcement, penalties and registration obligations.**

A. **Enforcement officers.**

This section shall be enforced by the Town of Augusta Dog Control Officers, Oneida County Sheriffs Office, or designee, and may also be enforced by any police officer, local dog control officer, peace officers, animal control officer, New York State Police, having jurisdiction within Oneida County. Such enforcement officers shall have the authority to enforce the provisions of this section and to take such necessary and related enforcement actions, including, without limitation, accepting, recording, and investigating complaints, issuing appearance tickets, obtaining supporting depositions, and preparing and submitting criminal and civil complaints to a court of competent jurisdiction.

B. **Classification of offense.**

Any person who violates the prohibition found within Subsection (b)(1) of this section, shall, upon conviction thereof, be guilty of a violation, as defined in § 55.10 of the New York State Penal Law as may be amended from time to time. Each calendar day in which such person violates Subsection (b)(1) of this section shall constitute a separate offense.

C. **Penalties and Registration.**

The court may impose a sentence of imprisonment to be fixed by the court for a term not to exceed 15 days, consistent with § 70.15(4) of the New York State Penal Law, a sentence to pay an amount to be fixed by the court not exceeding the amount of \$250, consistent with § 80.05(4) of the New York State Penal Law, or both.

The court may also elect to cause the dog(s) underlying the basis of the conviction to be surrendered or otherwise forfeited by the person after such conviction. The surrender or forfeiture shall be to an enforcement officer, as provided herein above.

In lieu of or in addition to any other penalty imposed under this ordinance, the court may impose upon any person who fails to comply with Subsection 2 of this ordinance a civil penalty, enforceable and collectable by the Town of Augusta, in the amount of \$150 for a first offense, \$250 for a second offense, and \$500 for each additional offense.

D. Disposition of fines.

All fines collected pursuant to this section shall be the sole property of the Town of Augusta, kept and accounted for separately in the office of the State Comptroller.

Section 4. Severability.

If any clause, sentence, paragraph, section, subdivision or other part of this section 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 section which shall remain in full force and effect except as expressly limited by such order or judgment.

Section 5 Reverse preemption.

This section 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 section, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the Town of Augusta. The Utica Common Council may determine via ordinance whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 6 Effective Date

BE IF FURTHER ORDANED, that this ordinance shall take effect immediately.

Yeas: 5

Nays: 0

Adopted: 10-16-19

STATE OF NEW YORK, TOWN OF AUGUSTA

Office of the Town Clerk, I hereby certify that I have compared the foregoing copy of an ordinance of the Town of Augusta with the record of proceedings of the Town Board of said Town of Augusta, duly made and on file in this office, and that same is a correct transcript therefrom and of the whole of said ordinance.

In testimony whereof, I have hereunto affixed the Corporate Seal of the Town, and subscribed my name, this 16 day of Oct 2019

Louisa M. Furness
Town Clerk



STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

October 30, 2019

Town Clerk
185 N Main Street
Oriskany NY 13425

RE: Town of Augusta, Local Law 2 & 3 2019, filed on October 23 2019

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



Department
of State

AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK } SS.
ONEIDA COUNTY

For two
.....
successive week(s), said publication commencing
on October 9, 2019
.....
and ending October 16, 2019
.....

Patricia Louise
Signature

Patricia A. Louise
Printed Name

of the Village of Waterville, County of Oneida, State of New York, being duly sworn, doth depose and say she is, and during the time of the publication was, the editor of the newspaper called THE WATERVILLE TIMES, a public newspaper printed and published in the Village of Waterville, County of Oneida. Deponent further says that the notice of which a printed copy is hereto annexed, was published in said newspaper at least once each week.

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
ON PROPOSED
LOCAL LAW 3 OF 2019
THE TOWN OF AUGUSTA,
AS SET FORTH HEREIN**

LEGAL NOTICE IS HEREBY GIVEN that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Augusta, the said Town Board will hold a public hearing at the Town Hall, North Main Street, Town of Augusta on the 16th day of October 2019 at 6:00 PM, titled "PROTECTION OF DOGS WITHIN THE TOWN OF AUGUSTA"

Said hearing may be adjourned from time to time as necessary.

Monthly Board Meeting to begin after Public Hearing.

Further information, including access to a copy of said proposed Local Law, may be obtained at the Town Clerks Office, 185 N. Main Street, Oriskany Falls, New York 13425.

TOWN BOARD OF THE
TOWN OF AUGUSTA
By Sonya M. Furness, Town Clerk
Oct. 9 & Oct. 16, 2019

Subscribed and sworn to before me

this 21st day of October 2019

Valerie Lockwood
.....

Notary Public

VALERIE Lockwood
Notary Public, State of New York
NO. 01MU6263603
Qualified in Oneida County
Commission Expires June 11th, 2020