

LOCAL LAW NO. "C" FOR 2014

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK FOR THE REGULATION OF PET SELLERS

Introduced: 5/12/14

By **Messrs. Domalewicz and Clenahan**; Messrs. Commisso, Morse, Ward, Bullock, Mss. Kinsch, McLean Lane Messrs. O'Brien, Mackey, Feeney, Corcoran, Cotrofeld, Joyce, Ms. Connolly, Messrs. Higgins, Beston, Clay, Ethier and Ms. Maffia-Tobler:

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Legislative Purpose:

The purpose of this local law is to promote the health, safety and welfare of the public by ensuring that prior to dogs and cats being sold as pets in Albany County they are raised and maintained in a safe and healthy manner. Regulation of businesses selling dogs and cats is in the public interest because residents of Albany County invest so much financially and emotionally in their companion animals. Ensuring that these animals are healthy will promote the health, safety and welfare of the public by ensuring that pets purchased in Albany County do not expose their owners to health risks. This measure further serves the public good by helping to reduce the burden on Albany County taxpayers who bear the cost of housing and euthanizing unwanted pets that are surrendered to county shelters.

Section 2. Definitions:

1. "Animal" means a dog or a cat.
2. "Person" means any individual, corporation, partnership, association, municipality or other legal entity.
3. "Consumer" means any individual purchasing an animal from a pet seller. A pet seller shall not be considered a consumer.
4. "Pet Seller" means any person in Albany County who engages in the sale or offering for sale of more than nine dogs or cats per year to the public for profit. This definition includes breeders who sell or offer to sell dogs or cats to the public for profit provided that a breeder who sells or offers to sell for profit fewer than nine dogs or cats per year that are born and raised on the breeder's residential premises shall not be considered a pet seller as a result of selling or offering for sale such dogs or cats. This definition shall also not include duly incorporated humane societies or animal protective associations dedicated to the care of unwanted animals which make such animals available for adoption, whether or not a fee is charged for such adoption.
5. "Dog Dealer" means any person who:
 - (a) Sells dogs belonging to such person that he or she has not bred on his or her own premises to a pet seller in Albany County for resale to another, or;

- (b) Transfers dogs belonging to another to a pet seller in Albany County for any type of consideration, fee, commission or percentage of sales price.
- 6. "Dog Source Breeder" means any person who sells dogs he or she has bred on his or her own premises for resale by a dog dealer or pet seller in Albany County.
- 7. "Primary enclosure" means 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.
- 8. "Housing Facility" means 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.
- 9. "Department" means the Albany County Department of General Services.
- 10. "Commissioner" means the commissioner of the Albany County Department of General Services
- 11. "Non-elective Surgical Procedure" means a surgical procedure that is necessary to preserve or restore the health of the animal, to prevent an animal from experiencing pain or discomfort, or to correct a condition that would interfere with an animal's ability to walk, run, jump or otherwise function in a normal manner.
- 12. "Clinically Ill" means an illness that is apparent to a veterinarian based on observation, examination or testing of an animal or upon review of the medical records relating to the animal.

Section 3. Pet Sellers - Permit Required.

- 1. It is unlawful for any pet seller to display, offer for sale, sell, barter or exchange for nominal consideration, any dog or cat within the County of Albany without first obtaining a permit from the Commissioner.
- 2. The Commissioner shall issue permits to pet sellers only upon proof that the animals displayed, offered for sale or sold by such sellers are raised and maintained in a safe and healthy manner.
- 3. For purposes of this local law, a dog or cat is raised and maintained in a safe and healthy manner when:
 - (a) The dog or cat is kept by a pet seller in compliance with the minimum standards of care required by section eight of this local law, and
 - (b) (for dogs only) the dog was obtained from a source breeder who keeps dogs in compliance with the minimum standards of care required by section twelve of this local law, and
 - (c) compliance with paragraph (a) of this subdivision shall be established through inspection by the Commissioner in accordance with section seven of this local law and compliance with paragraph (b) of this subdivision shall be established by the certification required by section eleven of this local law.

Section 4. Pet Seller Permits - Application, Fees and Delegation of Authority.

1. No person shall operate as a pet seller in Albany County unless such person holds a permit issued by the Commissioner. A pet seller in operation as a pet seller on or before the effective date of this section, who has filed an application for an initial permit under this local law shall be authorized to operate without such permit until the Commissioner grants, or after notice and opportunity to be heard, declines to grant such permit. Each application for a permit shall be made on a form supplied by the department and shall contain such information as may be required by the department. Renewal applications shall be submitted to the Commissioner at least thirty days prior to the commencement of the next permit year.
2. The Commissioner may delegate his or her authority pursuant to this section to issue pet seller permits to a not for profit animal protective organization duly incorporated in the State of New York. Such delegation shall be made pursuant to an agreement entered into by the County and such corporation.
3. Each application for a permit shall be accompanied by a nonrefundable fee in the following amount: For pet sellers selling or offering for sale 25 or more animals per year \$200; for pet sellers selling or offering for sale less than 25 animals per year \$100.
4. Where the authority to issue pet seller permits is delegated to a duly incorporated animal welfare organization, that corporation shall, on or before the fifth day of each month, remit to the Commissioner one hundred percent of all permit fees collected during the preceding month. The remittance shall be accompanied by a report of permit sales made during such month. All permit fees so remitted shall be the property of the County of Albany and shall be used solely for the purpose of carrying out and enforcing the provisions of this local law. Costs incurred in enforcing the provisions of this local law by a duly incorporated animal welfare organization may be defrayed by the Commissioner pursuant to rules promulgated by the Commissioner for that purpose.
5. Proof to the satisfaction of the Commissioner of compliance with the requirements of this local law and with other applicable provisions of this local law shall precede issuance of a pet seller permit.
6. Upon validation by the Commissioner or the duly incorporated animal welfare organization authorized under this section to issue pet seller permits, the application shall become the permit of the pet seller.
7. The Commissioner shall provide a copy of the permit to the pet seller. The Commissioner shall retain a copy of the permit. If the Commissioner has delegated the permitting requirement to a duly incorporated animal welfare organization, that organization shall provide a copy of the permit to the pet seller and a copy to the Commissioner. The County of Albany shall retain a copy of the permit in its own records.

8. No pet seller shall publish or advertise the sale or availability of any dog or cat unless the publication or advertisement is accompanied by the pet seller's permit number. Notwithstanding the foregoing, a pet seller in operation on or before the effective date of this section, who has filed an application for an initial permit under this local law may publish or advertise the sale or availability of any dog or cat without the publication or advertisement being accompanied by the pet seller's permit number until the Commissioner grants, or, after notice and opportunity to be heard, declines to grant such permit.
9. Such permit shall be renewable annually, together with payment of the nonrefundable fees prescribed in subdivision three of this section.
10. Pet sellers shall conspicuously display their permits on the premises where the animals are kept for sale so that they can be seen by potential consumers.

Section 5. Permit Refusal, Suspension or Revocation.

1. Convictions. The Commissioner shall not issue or renew, and shall suspend or revoke a pet seller permit issued pursuant to section four of this local law based on a conviction of a violation of any provision of Article Twenty Six of the Agriculture and Markets Law or regulations promulgated thereunder pertaining to the humane treatment of animals, cruelty to animals, endangering the life or welfare of an animal, or violation of federal, state or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.
2. Outstanding fines or penalties. The Commissioner shall not issue or renew a permit unless there are no unpaid or outstanding fines, penalties or forfeitures imposed by the Commissioner for violations of this local law or other applicable laws pertaining to the treatment of animals.
3. Outstanding uncorrected violations. The Commissioner shall not issue a new permit to any pet seller which has outstanding uncorrected violations of this local law.
4. The Commissioner may decline to grant or renew, or may suspend or revoke a pet seller permit based on the following grounds:
 - (a) Material misstatement in the permit application, or
 - (b) Material misstatement in or falsification of records required to be kept pursuant to this local law, or under any regulation promulgated thereunder, or
 - (c) Failure to allow the Commissioner or his or her authorized agents to inspect records or pet seller facilities.
5. The acceptance of an application and fee for a new permit shall not prevent the Commissioner from taking any action that he or she deems necessary, including, but not limited to, denial of a permit if Departmental or other Investigation or pre-permit inspection discloses conditions or circumstances

indicating that a new permit should not be issued. If a new permit is denied, the application fee shall not be refunded

6. Before any pet seller permit shall be suspended or revoked, the Commissioner, or any hearing officer he or she may designate, shall hold a hearing upon due notice to the permit holder in accordance with regulations promulgated by the Department.
7. Any action of the Commissioner shall be subject to judicial review in a proceeding under Article Seventy-Eight of the Civil Practice Law and Rules.

Section 6. Enforcement.

The provisions of this local law may be enforced concurrently by the Department and by any duly incorporated animal welfare organization to which the County has delegated the Commissioner's permitting and/or inspection authority.

Section 7. Inspection of Pet Sellers.

1. The Commissioner or his or her authorized agents shall, at a minimum, make yearly inspections of pet seller facilities to ensure compliance with the provisions of this local law, except for those pet sellers who engage in the sale or offering for sale of fewer than nine dogs or cats in a year, in which case inspections shall be made, in the discretion of the Commissioner or his or her authorized agents, whenever a complaint warrants such investigation.
2. The Commissioner may, pursuant to an agreement entered into with a duly incorporated not for profit animal welfare organization, delegate to such organization the authority to conduct inspections of pet sellers and to respond to complaints concerning pet sellers made to the Commissioner
3. Any person conducting an inspection of a pet seller or responding to a complaint concerning a pet seller shall be specifically trained in the proper care of cats and dogs and in the investigation and identification of animal cruelty. The Commissioner may promulgate regulations governing the form and content of such training.

Section 8. Pet Sellers- Minimum Standards of Care.

1. Pet sellers shall comply with the following minimum standards of care for every dog or cat in their custody or possession.
 - (a) Housing.
 - (1) Except where dogs or cats are permitted to roam freely inside a pet seller's residential premises, animals shall be housed in primary enclosures or cages that are structurally sound and maintained in good repair so as to prevent the dog or cat from escaping from the enclosure and protect it from injury. 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.
 - (2) Primary enclosures or cages housing animals shall provide sufficient space to allow each animal 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.

(3) 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.

(4) The temperature surrounding the animal shall be compatible with its health and well-being. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and humidity and the ambient temperature shall not fall below 50 degrees Fahrenheit or rise above 85 degrees Fahrenheit. Shade from sunlight shall be provided by natural or artificial means.

(5) 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. Animal areas must be provided with regular diurnal light cycle of either natural or artificial light.

(6) 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.

(7) In the event that a pet seller has a pregnant or nursing dog on his or her premises, the pet seller 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. If the amount of floor space is less than 5% of the minimum space requirement for the nursing dog, the amount of floor space must be approved in writing by a licensed veterinarian and kept in the seller's records.

(8) Pet sellers shall designate and provide an isolation area for 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.

(b) Sanitation.

(1) 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

(2) Primary enclosures must be cleaned daily and sanitized at least once every two weeks using one of the following methods:

(a) Live steam under pressure;

(b) Washing with water with a temperature of at least 180 degrees Fahrenheit and soap or detergent;

(c) 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.

(3) 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.

(c) Feeding and Watering.

(1) Animals shall be provided with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.

(2) 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.

(3) Sanitary food receptacles shall be provided in sufficient number, of adequate size, and located so as to enable each animal on the cage or primary enclosure to be supplied with an adequate amount of food.

(4) 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.

(d) Handling.

Each dog or cat shall be handled in a humane manner so as not to cause the animal physical injury or harm or undue stress

(e) Veterinary Care.

(1) Any pet seller operating with a permit pursuant to this local law shall designate an attending veterinarian, who shall provide veterinary care to the pet seller's animals which shall include a written program of veterinary care and regular visits to the pet seller's premises. Such program of veterinary care shall include:

(a) The availability of appropriate facilities, personnel, equipment and services to comply with the provisions of the local law;

(b) The use of methods determined to be appropriate by the attending veterinarian to prevent control and respond to diseases and injuries, and the availability of emergency, weekend and holiday care;

(c) Daily observation of all animals to assess their health and well-being, provided however, that daily observation of animals may be accomplished by someone other than the attending veterinarian who has received the guidance identified in subparagraph of this paragraph; and provided, further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior and well-being is conveyed to the attending veterinarian;

(d) Adequate guidance to personnel Involved in the care [and use) of animals regarding handling and immobilization;

(e) Pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures; and

(f) In the case of breeders who sell or offer to sell nine or more dogs or cats per year to the public for profit that are born and raised on the breeder's residential premises, annual veterinary examinations, at a minimum, for all intact adult dogs or cats on such breeder's premises.

(2) All dogs and cats shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided as necessary and without undue delay. Each animal shall be observed each day by the pet seller or by a person working under the pet seller's supervision.

(3) Within five business days of receipt, but prior to sale of any dog, the pet seller shall have a duly licensed veterinarian conduct an examination and tests appropriate to the age and breed to determine if the animal has any medical conditions apparent at the time of the examination that adversely affects the health of the animal. For animals eighteen months of age or older, such examination shall include diagnosis of any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from other animals in the isolation area required In paragraph (a) (9) of subdivision one of this section.

(4) If an animal suffers from a congenital or hereditary condition, disease or illness which, in the professional opinion of the dog seller's veterinarian, requires euthanasia, the veterinarian shall humanely euthanize the dog without undue delay.

(5) In the event that an animal is returned to a pet seller due to congenital or hereditary condition, illness or disease requiring veterinary care, the pet seller shall, without undue delay, provide the animal with proper veterinary care.

(f) Humane Euthanasia.

Humane euthanasia of an animal shall be carried out only by a veterinarian duly licensed in the State of New York and in accordance with section three hundred seventy four of the New York State Agriculture and Markets Law.

(g) Exercise Requirements.

Pet sellers shall develop, maintain, document and implement an appropriate plan to provide dogs with the opportunity for daily exercise. In developing such plan, consideration should be given to providing positive physical contact with people that encourages exercise through play or other similar activities. Such written plan shall be approved by the attending veterinarian and shall be provided to the Department annually and in accordance with any regulations it may promulgate.

(h) Fire Safety.

All pet seller premises must be equipped with a smoke alarm that is operating properly and must have a means of fire suppression, such as fire extinguishers on the premises and in good repair. Pet sellers, except those who maintain dog or cats solely on residential premises, must also have an automatic means of fire suppression, such as a sprinkler system, on the premises and in good repair.

(i) Grooming

All dogs and cats shall be groomed regularly to prevent excessive matting of fur, overgrown toe nails and flea and tick infestation.

Section 9. Pet Sellers - Consumer Protection Requirements.

1. Sale of Animals: Unfit for purchase provisions.

(a) If, within fourteen business days following the sale of an animal subject to this local law or receipt of the information statement required by subdivision two of this section, whichever occurred last, a veterinarian of the consumer's choosing, licensed by a state, certifies such animal to be unfit for purchase due to illness, congenital malformation which adversely affects the health of the animal, or the presence of symptoms of a contagious or infectious disease, or if, within one hundred eighty calendar days following such sale or receipt, whichever occurred last, a veterinarian of the consumer's choosing, licensed by a state, certifies such animal to be unfit for purchase due to a congenital malformation which adversely affects the health of the animal, the pet seller shall afford the consumer the right to choose one of the following options:

(1) The right to return the animal and receive a refund of the purchase price including sales tax and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section;

(2) The right to return the animal and to receive an exchange animal of the consumer's choice of equivalent value and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section; or

(3) The right to retain the animal and to receive reimbursement from the pet seller for veterinary services from a licensed veterinarian of the consumer's choosing, for the purpose of curing or attempting to cure the animal. The reasonable value of reimbursable services rendered to cure or attempting to cure the animal shall not exceed the purchase price of the animal. The value of such services is reasonably comparable to the value of Similar services rendered by other licensed veterinarians in proximity to the treating veterinarian. Such reimbursement shall not include the costs of initial veterinary examination fees and diagnostic fees not directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section.

(b) No pet seller shall knowingly sell an animal that has a diagnosed congenital condition or contagious disease that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.

(c) The Commissioner by regulations shall prescribe a form for, and the content of, the certification that an animal is unfit for purchase, which shall be provided by an examining veterinarian to a consumer upon the examination of an animal which is subject to the provisions of this section. Such form shall include, but not be limited to, information which identifies the type of animal, the owner, the date and diagnosis of the animal and the

treatment recommended if any, and an estimate or the actual cost of such treatment. Such form shall also include the information statement prescribed by subdivision two of this section

(d) The Commissioner by regulations shall prescribe information which shall be provided in writing by the pet seller to the consumer upon the sale of the animal. Such information shall include, but not be limited to, a description, including breed of the animal, the date of purchase, the name, address and telephone number of the consumer, and the amount of the purchase. The pet seller shall certify such information by signing the document in which it is contained.

(e) The refund and/or reimbursement required by paragraph (a) of subdivision one of this section shall be made by the pet seller not later than ten business days following receipt of a signed veterinary certification herein required. Such certification shall be presented to the pet seller not later than three business days following receipt thereof by the consumer

(f) Every pet seller who sells an animal required to be vaccinated against rabies, pursuant to section twenty-one hundred forty-one of the public health law, to a consumer shall provide the consumer at point of sale with a written notice provided by the Department summarizing rabies immunization requirements.

(g) A veterinary finding of intestinal parasites shall not be grounds for declaring an animal unfit for sale unless the animal is clinically ill due to such condition. An animal may not be found unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer taking possession thereof.

(h) In the event that a pet seller wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, such seller shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such seller. Upon such examination, if the consumer and the seller are unable to reach an agreement which constitutes one of the options set forth in paragraph (a) of subdivision one of this section within ten business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such refund, exchange or reimbursement.

(i) Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

2. Information statement to purchaser.

(a) Every pet seller shall deliver to the purchaser of an animal, at the time of sale, a written statement in a standardized form prescribed by the Commissioner containing the following information:

(1) For Cats:

(a) The breeder's and, if applicable, broker's name and address, if known, or if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address and federal identification number;

(b) The date of the cat's birth, unless unknown because of the source of the cat, the date the pet seller received the cat, and the location where the cat was received;

(c) A record of immunizations and worming treatments administered, if any, to the cat as of the time of sale while the cat was in the possession of the pet seller, including dates of administration and the types of vaccines or worming treatments administered;

(d) A record of any known disease, sickness or congenital condition that adversely affects the health of the cat at the time of sale;

(e) A record of any veterinary treatment or medication received by the cat while in the possession of the pet seller and either of the following:

(1) A statement, signed by the pet seller at the time of sale, indicating all of the following: 1) The cat has not no known disease or illness; 2) The cat has no known congenital or hereditary condition that adversely affects the health of the cat at the time of sale; or

(2) A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the cat at the time of sale, along with a statement signed by a licensed veterinarian that authorized the sale of the cat, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or non-elective surgical procedures, and is not likely to require hospitalization or non-elective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the cat clinically ill or is likely to make the cat clinically ill. The statement should be valid for fourteen business days following examination of the cat by the veterinarian.

(2) For dogs:

(a) The breeder's and, if applicable, broker's name and address, if known, and if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address and federal identification number;

(b) The date of the dog's birth and the date and location where the pet seller received the dog. If the dog is not advertised or sold as a purebred, registered or registerable, the date of birth may be approximated if not known by the seller;

(c) The breed, sex, color and identifying marks at the time of sale. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate. If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known;

(d) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale while the dog was in the possession of the pet seller, including dates of administration and the type of vaccines and/or worming treatments administered;

(e) A record of any veterinary treatment or medication received by the dog while in the possession of the pet seller and either of the following:

(1) A statement, signed by the pet seller at the time of sale, indicating all of the following: 1) The dog has no known disease or illness; 2) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of sale; or

(2) A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the dog at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the condition, disease, or illness does not require hospitalization or non-elective surgical procedures, and is not likely to require hospitalization or non-elective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for fourteen business days following examination of the dog by the veterinarian.

(f) Notification that dogs residing in New York State must be licensed, and that a license may be obtained from the municipality in which the purchaser resides.

(g) A disclosure made pursuant to subparagraph (1) or (2) of this section shall be signed by both the pet seller certifying the accuracy of the statement and the purchaser acknowledging receipt of the statement. At the time of sale, each pet seller shall provide the

purchaser with information on the value of spaying and neutering of dogs and cats.

(h) Every pet seller shall post conspicuously within close proximity to the primary enclosures of dogs and cats offered for sale, a notice containing the following language in one hundred point type: "Information on the source of these dogs and cats and the veterinary treatment received by these dogs and cats is available for review by prospective purchasers."

3. Animal Pedigree Registration.

(a) Representation regarding animal's pedigree registration. Any pet seller who states, promises, or represents that an animal is registered or is capable of registration with an animal pedigree registry organization shall provide the purchaser with the appropriate documents necessary for such registration within one hundred twenty days following sale of the animal. If the purchaser notifies the pet seller in writing on or before such time that he or she has not received the appropriate registration documents, the pet seller shall have, in addition to the one hundred twenty days, sixty more days on which to provide the appropriate documents.

(1) If a pet seller fails to provide documents as required under paragraph (a) of this section, the purchaser, upon written notice to the pet seller, may keep the animal and receive a partial refund of seventy-five percent of the purchase price, in which event the pet seller shall not be required to provide registration documents. Acceptance by the purchaser of appropriate registration documents, whether or not within the times periods set forth in paragraph (a) of this section, shall be deemed a waiver of the right to a partial refund pursuant to this subdivision.

(b) Registration notice-disclosure statement.

(1) A pet seller that sells animals registered or registerable with a pedigree registry shall post conspicuously within close proximity to those animals a notice that states: "Pedigree registration means that the particular registry maintains information on the parentage and identity of the animal."

(2) For every animal sold by a pet seller that is sold with the representation that the animal is registered or able to be registered with an animal pedigree registry organization, the following fully completed disclosure shall be made by the pet seller in writing on a sheet separate from any other statement in substantially the following form: "Disclosure of animal pedigree registration: Description of animal; The animal you are purchasing is registered/qualified to be registered (circle one) with the (enter name of registry). Registration means that (enter name of registry) maintains information regarding parentage and identity of this animal. Persons buying animals represented by a pet seller as being qualified to be registered are

entitled to papers necessary to effect such registration within 120 days of purchase. Failure to provide such papers entitles the purchaser to remedies under law. However, if the purchaser notifies the pet seller within the 120 day period that he or she has not received such papers, the pet seller shall have an additional 50 days commencing at the end of the 120 day period in which to provide the documents. Acknowledged: Date: Purchaser's Signature."

(3) The disclosure shall be signed and dated by the purchaser of the animal, acknowledging receipt of a copy of the statement. The pet seller shall retain a copy of the signed disclosure.

Section 10. Records of Purchase and Sale.

1. Each pet seller shall keep and maintain records for each dog or cat purchased, acquired, held, sold or otherwise disposed of. The records shall include the following:

(a) The name and address of the person from whom each dog or cat was acquired. If the person from whom the animal was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number. If the person is a pet dealer licensed by New York State pursuant to Article 26-A of the Agriculture and Markets Law, the dealer's name, address and state dealer identification number. If the person is a pet seller licensed by this act, the pet seller's name, address and permit number. If the person is a breeder, the breeder's name, address, and, if applicable, USDA license number;

(b) In the case of cats, if a cat is placed in the custody or possession of a pet seller and the source of origin is unknown, the pet seller shall state the source of origin is unknown, accompanied by the date, time, and location of receipt;

(c) The original source of the animal if different than the person recorded in subdivision one of this section;

(d) The date each dog or cat was acquired;

(e) A description of each animal showing age, color, markings, sex, breed, and any inoculation, worming, or other veterinary treatment or medication information available. Records shall also include any other significant identification, if known, for each animal, including official tag number, tattoo or (implant) microchip;

(f) The name and address of the person to whom the animal is sold, given or bartered or to whom it is otherwise transferred or delivered. The records shall indicate the date and method of disposition.

2. Notwithstanding the provisions of subdivision one of this section, no pet seller shall knowingly buy, sell, exhibit, transport or offer for sale, exhibition or transportation, any stolen dog or cat. No pet seller shall knowingly sell any dog or cat younger than eight weeks of age.

3. Records for each animal shall be maintained for a period of two years from the date of sale or transfer, whichever occurs later. During normal business hours, the records shall be made available to persons authorized by law to enforce the provisions of this local law.

Section 11. Certification by Dog Dealers and Source Breeders Required.

1. It shall be unlawful for any pet seller in Albany County to knowingly import, offer for sale, sell or barter any dog from a source breeder that does not comply with the standards of care enumerated in this local law.

2. Dog dealers and Source Breeders who supply dogs directly to pet sellers shall provide a written certification to such pet sellers 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 section twelve of this local law.

3. The Commissioner shall establish a written form for the certification required by this section, which will, at minimum, include the name, legal address, contact information for the dog dealer, if applicable, and source breeder along with the requirement for a sworn statement attesting that the source breeder is in compliance with the standards prescribed in section twelve of this local law.

4. Pet sellers shall provide purchasers with a copy of this certification at the point of sale and shall file the written certification required by this section with the Commissioner on a semi-annual basis and in accordance with any rules promulgated by the Commissioner.

Section 12. Dog Source Breeders: Minimum Standards of Care.

1. Food and Water.

(a) All dogs must be provided with adequate food that is clean and free from contaminants at intervals not to exceed twelve hours or at least twice in any twenty four hour period unless directed otherwise by a duly licensed veterinarian.

(b) All dogs must be provided with potable water at all times, unless directed otherwise in writing by a duly licensed veterinarian. Such special instructions concerning food or water shall be kept in the Dog Source Breeder's records for the dog.

2. Housing.

(a) Except where dogs are permitted to roam freely inside the 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.

(b) Primary enclosures for dogs shall:

(1) Have no sharp points or edges that could injure dogs;

(2) Be maintained in a manner to protect dogs from injury;

(3) If not fully enclosed on the top, be of a height sufficient to prevent the dog from climbing over the walls of the enclosure;

- (4) Keep animals from entering the enclosure;
- (5) Enable dogs to remain dry and clean;
- (6) Provide shelter and protection from temperatures and weather conditions that may be uncomfortable or hazardous to any dog;
- (7) Provide sufficient space to shelter all dogs housed in the primary enclosure at one time;
- (8) Provide potable water at all times, unless otherwise directed by a veterinarian in writing that shall be kept in the Dog Source Breeder's records;
- (9) Enable all surfaces in contact with dogs to be readily cleaned and sanitized in compliance with paragraph (d) of this subdivision 4 of this section.

3. Space.

- (a) Primary enclosures shall provide enough space to allow each dog to turn about freely and to stand, sit and lie in a normal position. All dogs in the enclosure must be able to lie down while fully extended without the dog's head, legs, face or feet touching any side of the enclosure or another dog. The interior height of a 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.
- (b) 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: Find the mathematical square of the sum of the length of dog in inches, measured in a straight line from the tip of its nose to the base of its tail plus six inches, then divide the product by 144, then multiply by two. The calculation is: $(\text{length of dog in inches} + 6) \text{ equals required floor space in square inches. Required floor space in inches} / 144 \times 2 = \text{required floor space in square feet.}$ For a second dog placed in the primary enclosure the minimum floor space shall be doubled. The floor space shall be calculated using the longest dog. For each dog above two, the minimum floor space shall be multiplied by 1.5 per additional dog.
- (c) For dogs over twelve weeks of age, primary enclosures must be placed no higher than thirty inches above the floor of the housing facility and may not be placed over or stacked on top of another cage or primary enclosure
- (d) For dogs twelve weeks of age or younger, 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 off 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 trap or other device must be impermeable to 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 a sprinkler system on premises.

4. Sanitation.

(a) Excreta, feces, hair, dirt, debris 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.

(b) Used primary enclosures and food and water receptacles for dogs must be cleaned and sanitized in accordance with paragraph (d) of this section before they can be used to house, feed or water another dog or group of dogs.

(c) Used primary enclosures and food and water receptacles must be sanitized at least once every two weeks using one of the methods prescribed in paragraph (d) of this section and more often if necessary to prevent an accumulation of excreta, feces, hair, dirt, debris, food, waste and other disease hazards.

(d) Hard surfaces of primary enclosures and food and water receptacles must be sanitized 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, as with a mechanical cage washer; or

(3) Washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfection 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 material and mineral buildup and to provide sanitization followed by a clean water rinse.

(e) All dogs must be removed from the primary enclosure when it is being sanitized in accordance with the provisions of this subdivision.

(f) Primary enclosures, exercise areas and housing facilities using material that cannot be sanitized using methods delineated in paragraph (d) of this section must be made sanitary by removing contaminated material as necessary to prevent odors, diseases, pests, insects and vermin infestation.

(g) 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 husbandry 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.

(h) An effective program for the control of insects, external parasites affecting dogs or pests must be established and maintained so as to promote the health and well-being of the dogs and reduce contamination by pests in housing facilities.

(i) The floors and walls of primary enclosures must be impervious to moisture. The ceiling of indoor housing facilities must be impervious to moisture or be replaceable.

5. Flooring.

(a) Flooring in all primary enclosures must be constructed in a manner that protects the dogs' feet and legs from injury. The floor must not permit any part of the foot of a dog housed in the enclosure to pass through any opening.

(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:

(1) The flooring is flat;

(2) Spaces between slats run the length or width of the floor, but not both;

(3) Slats are no less than 3.5 inches in width;

(4) The floor has spaces between the slats that are no more than 0.5 inch in width; and

(5) Each slat is level with the slat next to it within a single primary enclosure.

6. Co-housing/ Bitches in Heat/Nursing puppies.

(a) All dogs housed in the same primary enclosure must be compatible as determined by observation. 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. If the additional amount of floor space for each nursing puppy is less than five percent of the minimum requirement for the bitch, the amount of floor space must be approved by the attending veterinarian and shall be kept in the Dog Source Breeder's records.

7. Ventilation and Lighting.

(a) Housing facilities for dogs must be sufficiently heated and cooled to protect dogs from temperature or humidity extremes and to provide for their health and well-being. If dogs are present, the ambient temperature in the facility must not fall below 50 degrees Fahrenheit or rise above 85 degrees Fahrenheit.

(b) Housing facilities for dogs must be sufficiently ventilated at all times when dogs are present to provide for their health and well-being and to minimize odors, drafts, ammonia levels and to prevent moisture condensation. The relative humidity must be maintained at level that ensures the health and well-being of the dogs housed therein.

(c) Housing facilities for dogs must be lighted well enough to permit routine inspection and cleaning of the facility and observation of the dogs. Animal areas must be provided with regular diurnal light cycle of either natural or artificial light. Lighting must be uniformly diffused throughout housing facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning and observation of animals at any time and for the well-being of the animals. Primary enclosures must be placed so as to protect dogs from excessive light.

8. Veterinary Care and Records.

(a) The Dog Source Breeder shall establish a veterinarian client patient relationship.

(b) The Dog Source Breeder 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) Dogs shall be examined by a veterinarian at least once every six months. During the examination the veterinarian shall use appropriate methods to prevent, control, diagnose and treat diseases and injuries.

(d) For each dog harbored by a Dog Source Breeder, a permanent record shall be kept and shall contain all of the following information:

- (1) The date of birth of the dog;
- (2) The date of the last rabies vaccination of the dog; and
- (3) The date of the dog's last veterinary check.

- (e) All veterinary records shall be kept for two years after the dog has left the care of the facility.
- (f) Notwithstanding any law, a dog may not be euthanized except by a licensed veterinarian.

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

- (a) Each primary enclosure housing a dog over twelve weeks of age shall have an entryway that allows the dog unfettered clearance from the enclosure into an outdoor exercise area.
- (b) The exercise area must be at least twice the size of each dog's primary enclosure and must have adequate means to prevent dogs from escaping.
- (c) 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.
- (d) The exercise area must be cleaned in accordance with paragraph (f) of subdivision four of this section.
- (e) Dogs must not be placed in the exercise area in a manner that would cause injury to the dog.
- (f) Nursing bitches and their puppies shall be exercised separately from other dogs.
- (g) 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.
- (h) Forced exercise methods or devices such as swimming, treadmills or carousel type devices shall not meet the exercise requirements of this paragraph and are prohibited.
- (i) If, in the opinion of a license 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 the veterinarian and shall be revisited by the attending veterinarian at least once every 30 days.

Section 13. Notice to Consumers.

Every pet seller who sells an animal to a consumer shall post a notice clearly visible to the consumer and provide the consumer at the time of sale with a written notice, printed or typed, setting forth the rights provided under this local law. Such notices shall be prescribed by the Commissioner, but the written notice may be contained in a written contract, an animal history certificate or separate document, provided such notices are in ten-point boldface type. No pet seller shall restrict or diminish by contract or otherwise, the rights provided under this local law.

Section 14. Violations.

1. Violation of any provision of this local law is a civil offense for which a fine of not less than one hundred and not more than five hundred dollars for each violation may be imposed.

2. In addition to the penalties enumerated in this section, whenever there is a violation of the provisions of sections nine or ten of this local law, application may be made by the Commissioner or his designee to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated these provisions, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In such proceeding, the court may make allowances to the Commissioner as provided in paragraph six of subdivision (a) of section eighty three hundred three of the civil practice law and rules, and direct restitution.

Section 15. 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.

Section 16. 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 invalid or unconstitutional, such order or judgment shall not affect, impair, or otherwise invalidate the remainder of this local law which shall remain in full force and effect except as limited by such order or judgment.

Section 17. State Environmental Quality Review Act compliance.

This County Legislature determines that the foregoing action constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

Section 18. Effective Date and Applicability.

This local law shall be effective 180 days subsequent to filing in the Office of the Secretary of State and shall apply to all transactions occurring on or after the effective date of this local law.

Referred to Audit and Finance Committee. 5/12/14