

RESOLUTION NO. 2019-

***RELATIVE TO ADDING CHAPTER 702 OF THE CODIFIED ORDINANCES
ENTITLED HEALTH AND WELL-BEING OF DOGS***

By:

Council Chairman Andrew Touma
Council Member William Kennedy
Council Member Kenny Tompkins
Council Member Christopher Voccio

BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that Chapter 702 of the Codified Ordinances entitled “Health and Well-Being of Dogs” is hereby added to read as follows:

702.00 Findings/Purpose

This City Council finds that dogs are companions, valued for the animals’ loyal behavioral traits and ability to be kept in close proximity to people in domestic situations. At times, some dogs are left outdoors without means to protect themselves. These animals are exposed and vulnerable to changing weather conditions. In Niagara Falls, weather conditions are known to change quickly. Dangerous weather conditions include temperatures at extreme ends of the spectrum, subzero wind chills, sun, thunderstorms and high humidity. No dog should be left outside, tethered or otherwise, 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 or otherwise, and exposed for prolonged periods when the temperature rises to greater than 90° Fahrenheit are believed likely to experience heatstroke or other bodily harm.

This ordinance is intended to protect and provide for the health and well-being of dogs in Niagara Falls by regulating the manner in which dogs may be kept outdoors. This ordinance is also intended to provide greater protection for tethered dogs than found within New York State Agriculture and Markets Law Sections 353-b and 353 at the time of adoption. It is believed that most dogs tethered outside for prolonged periods do not have adequate protection.

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702.01 Regulations

(a) Prohibition. No person who owns or has custody or control of a dog shall knowingly leave such dog outdoors, tethered or otherwise, for longer than a period of one continuous hour 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.

(b) 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 one continuous hour 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 one continuous hour at such time as when the actual air temperature was greater than 90° Fahrenheit. Exceptions. This ordinance shall not apply:

- To 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
- To dogs required to be tethered under an applicable law, rule, regulation, or court order.

(c) Definitions. For purposes of this ordinance, the terms listed below have specific definitions, as follows:

- “Extreme weather conditions” shall include 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 Section 353-b(1)(b), as may be amended from time to time.

- “Weather alert” shall mean 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).
- “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).
- “Tether” shall include the actions of leashing, fastening, securing, chaining, tying, or otherwise restraining a dog to any stationary object outdoors.

702.02 Enforcement, Penalties, and Registration Obligations.

- (a) Enforcement Officers. This ordinance shall be enforced by any police officer, dog control officer or peace officers having jurisdiction within the City of Niagara Falls. Such enforcement officers shall have the authority to enforce the provisions of this ordinance 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 Section 702.02 of this ordinance, shall, upon conviction thereof, be guilty of a violation, as defined in Section 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 Section 702.02 of this ordinance shall constitute a separate offense.
- (c) Penalties and Registration. The court, in its discretion, may impose a sentence of imprisonment to be fixed by the court for a term not to exceed fifteen days, consistent

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with Section 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 two hundred fifty dollars, consistent with Section 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 Section 702 of this ordinance law a civil penalty, enforceable and collectable by the City of Niagara Falls, in the amount of two hundred fifty dollars for a first offense, five hundred dollars for a second offense, and one thousand dollars for each additional offense.

Conviction of a person under this ordinance shall require such person to register with the Animal Abuser Registry as an Animal Abuse Offender.

(d) Disposition of Fines. All fines collected pursuant to this ordinance shall be the sole property of the City of Niagara Falls.

702.03 Severability

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

702.04 Effective Date

This ordinance shall take effect on the day it is approved by the City Council of the City of Niagara Falls.

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