

NO. 2015-14

ORDINANCE

An Ordinance of the Luzerne County Council Providing for the Time and Manner Dogs May Be Outside During Severe Weather Events.

WHEREAS, Luzerne County is a home rule county with a Home Rules Charter adopted under the provisions of the Home Rule and Optional Plans Government Law; and

WHEREAS, the Luzerne County Council deems it advisable for the public health and welfare of the County to provide prohibitions on the times and manners dogs are left outside within Luzerne County during severe weather events; and

WHEREAS, the County Council desires to adopt the following provisions related to the treatment of dogs within the County;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE LUZERNE COUNTY COUNCIL as follows:

Section 1. Prohibitions.

- a. It shall be unlawful for any person to leave any dog outside and unattended during any period in which a severe weather warning has been issued for Luzerne County by the National Weather Service.
- b. It is unlawful for any person to leave any dog outside and unattended for a continuous period of time greater than thirty (30) minutes if the temperature during such period remains either entirely:
 - i. Below twenty-six (26) degrees Fahrenheit; or
 - ii. Above ninety-two (92) degrees Fahrenheit.
- c. For the purposes of this section, the following definitions apply:
 - i. “*Outside*” shall mean the dog is subject to the weather and elements, which expressly includes, but not be limited to, a dog in securely fenced-in yard, a dog in a kennel, or a dog tethered or tied-out. The dog shall be considered "outside" regardless of access to an outdoor doghouse or similar structure.
 - ii. “*Unattended*” shall mean any dog left outside either when the owner is inside the house or building, or the owner has left the house or building.

Section 2. Officials Authorized to Enforce this Ordinance.

- a. Pursuant to Section 5511 of Title 18 of the Pennsylvania Consolidated Statutes, the provisions of this Ordinance shall be enforced by the agents of the Society for Prevention of Cruelty to Animals of Luzerne County (“SPCA”). The SPCA agents shall have all powers

and responsibilities necessary to enforce this Ordinance as provided herein along with all those powers vested in such an agent under the Pennsylvania Animal Cruelty Law.

- b. In addition, all other officials with the authority and jurisdiction to enforce the provisions of Section 5511 of Title 18 of the Pennsylvania Consolidated Statutes may enforce this Ordinance.

Section 3. Enforcement Measures.

- a. Enforcement shall begin by providing notification to any owner or occupant of any premises in violation of this Ordinance, either personally or by posting such notice upon the premises that such owner must begin to act in compliance with this Ordinance within one (1) day of receipt of such notice.
- b. Upon the failure of such owner or occupant to bring his or her tethering situation into compliance with this Ordinance within such period of time, enforcement officials are authorized to enter upon such premises and to temporarily remove such dog from the property.
 - i. Any removed dog will be held at the Luzerne County SPCA.
 - ii. The authorized individual who removes the dog from the premises shall provide notice to the owner or occupant of the date, time and reason for removal, and where the dog is taken.
 - iii. Prior to any hearing regarding the violation, such dog owner may regain possession of any confiscated dog prior to a hearing when the following conditions are met:
 - a) Providing proof of ownership;
 - b) Payment of all costs associated with impoundment; and
 - c) The signing of an affidavit stating the owner understands the Ordinance and agrees to maintain compliance.
 - iv. No confiscated dog shall be considered surrendered to the confiscating party unless expressly surrendered, in writing, by the dog owner of his or her own volition, or adjudicated as forfeited as provided in the Pennsylvania Animal Cruelty Law after a hearing on the matter as provided in Section 4.

Section 4. Hearing.

- a. The SPCA and its legal counsel have the responsibility to file a complaint with the Magisterial District Court alleging the violations of this Ordinance and prosecute the alleged violations in accordance with the Pennsylvania Animal Cruelty Law.
- b. Any person alleged to have violated this Ordinance has the right to a hearing in front of a Magisterial District Judge for adjudication on the merits.
- c. If, after a hearing in front of a Magisterial District Judge, a person is found to have violated this act may appeal the decision to the Luzerne County Court of Common Pleas.

Section 5. Penalty.

- a. Any person who violates any provisions of this chapter shall commit a summary offense, and shall, upon being found guilty by a Magisterial District Judge, after hearing, pay a fine not to exceed \$500, together with all enforcement and shelter costs in the event a dog must be confiscated, and all court costs as permitted by law.
- b. Each day of violation shall constitute a separate offense, which shall be subject to prosecution as such. The maximum allowable fine where separate offenses are alleged and prosecuted at the same time is \$2,500.

Section 6. Effective Date and Transfer of Power.

Pursuant to the transfer of power restriction Section 2963(2) of Title 53 of the Pennsylvania Consolidated Statutes, the Effective Date of this Ordinance shall be March 1, 2017.

ENACTED the 24th day of November, 2015.

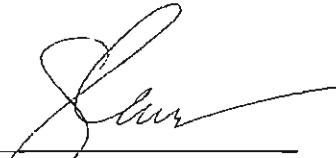
ROLL CALL VOTE: (10-1)

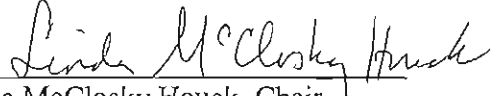
YES: Bobeck, Dobash, Haas, McGinley, Morelli, Sorokas, SA Urban, SJ Urban, Williams, and Houck

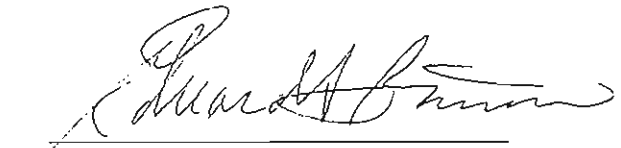
NO: Brominski

LUZERNE COUNTY COUNCIL

Attest:


Sharon Lawrence, Clerk of Council

BY: 
Linda McClosky Houck, Chair


Edward A. Brominski, Vice-Chair