

## **ORDINANCE 20-2019**

### **ORDINANCE OF THE BOROUGH OF MADISON AMENDING AND SUPPLEMENTING CHAPTER 59 OF THE BOROUGH CODE PROHIBITING THE RETAIL SALE OF DOGS AND CATS IN THE BOROUGH**

**WHEREAS**, Chapter 59 contains regulations pertaining to the operation of kennels, pet shops, shelters and pounds in the Borough; and

**WHEREAS**, according to the Humane Society of the United States (“HSUS”), inspection records show that many USDA-licensed breeders breed dogs or cats in relatively inhumane conditions. These breeders are commonly referred to as “puppy mills” or “kitten factories.” Documented problems of “puppy mills” include: overbreeding; inbreeding; veterinary care that does not meet the same standards as other breeders; relatively poor quality of food and shelter; lack of human socialization; and overcrowded cages; and

**WHEREAS**, dogs bred in “puppy mills” are more likely to have behavioral and/or health problems. While “kitten factories” are not as common as “puppy mills,” similar problems are reported regarding “kitten factories;” and

**WHEREAS**, according to the American Society for the Prevention of Cruelty to Animals (“ASPCA”), fearful behavior and lack of socialization with humans and other animals are common characteristics of dogs from “puppy mills” and kittens from “kitten factories;” and

**WHEREAS**, N.J.S.A. 4:19-15.8 contemplates municipal approval as a prerequisite to the establishment of pet shops for the retail sale of dogs and cats; and

**WHEREAS**, the Mayor and Council find that, in addition to State and Federal laws, the Borough has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats; and

**WHEREAS**, the Mayor and Council recognize that not all dogs and cats retailed in pet shops are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet shops as a “puppy mill” or “kitten factory”, but wish to facilitate the reduction/elimination of the practice; and

**WHEREAS**, the Mayor and Council agree that eliminating the sale of dogs and cats in retail establishments will help decrease the number of animals being housed in shelters, pounds and rescue organizations, thus reducing the cost to the public for sheltering such animals; and

**WHEREAS**, the Mayor and Council believe that a ban on the retail sale of dogs and cats will provide community awareness of animal welfare, and in turn, will encourage a more humane environment in the Borough and will be in the best interests of the public health, safety and welfare, and in the best interests of the dogs and cats in the

Borough; and

**WHEREAS**, the Council of the Borough of Madison finds that it is in the best interests of the citizens of the Borough of Madison to amend and supplement Chapter 59 as set forth below.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Madison, County of Morris, State of New Jersey, as follows:

**Section 1.** Chapter 59 (Animals and Rabies Control) of the Code of the Borough of Madison is hereby amended to read as follows:

§ 59-1 Definitions.

**ANIMAL CARE FACILITY**

**Any facility operated by a nonprofit humane agency, municipal agency, or any other authorized agent for the Borough for the purpose of impounding or caring for animals held under the authority of this Chapter or State Law.**

**ANIMAL RESCUE ORGANIZATION**

**An individual or group of individuals who, with or without salary or compensation, house and care for homeless animals in the home of an individual or in other facilities, with the intent of placing the animals in responsible, more permanent homes as soon as possible.**

**ANIMAL RESCUE ORGANIZATION FACILITY**

**The home or other facility in which an animal rescue organization houses and cares for an animal.**

**KENNEL OR KENNEL OPERATOR**

**Any establishment or person who owns or operates such an establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop or pet store.**

**PET SHOP OR PET STORE**

**~~Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein animals for sale are kept or displayed.~~ Any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes.**

**PET SHOP OPERATOR OR PET STORE OPERATOR**

**A person who owns or operates a pet shop or pet store, or both.**

**§ 59-13.1 Prohibited acts; exceptions.**

- A. No pet shop, pet shop operator, pet store, or pet store operator may sell, offer for sale, barter, auction, breed or otherwise dispose of dogs and cats in the Borough of Madison. Nothing in this section shall prohibit pet shops, pet shop operators, pet stores, or pet store operators from collaborating with animal care facilities, animal rescue organizations, pounds, or shelters to offer space for such entities to showcase adoptable dogs and cats.**
- B. Nothing contained herein shall prohibit an animal care facility, animal rescue organization, pound, or shelter from keeping, displaying, selling or otherwise transferring any dog, cat, or both, that has been seized, rescued, or donated.**

§ 59-17 Violations and penalties.

- C. The maximum fine for § 59-13.1 shall be not more than \$2,000.**

**Section 2. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

**Section 3. REPEALER.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4. EFFECTIVE DATE.** This Ordinance shall take effect after final passage and publication as prescribed by law.

ADOPTED AND APPROVED

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ROBERT H. CONLEY, Mayor

Attest:

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ELIZABETH OSBORNE, Borough Clerk