

ORDINANCE 11-2019

AN ORDINANCE OF THE BOROUGH OF MADISON AMENDING AND SUPPLEMENTING CHAPTER 59 OF THE BOROUGH CODE PROHIBITING THE RETAIL SALE OF CERTAIN 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 inhuman conditions. These breeders are commonly referred to as “puppy mills” or “kitten factories.” Documented problems of “puppy mills” include: over-breeding; 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 behavior 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 finds 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 it wishes to facilitate the reduction/elimination of the practice; and

WHEREAS, the Mayor and Council agree that restricting the sale of dogs and cats in retail establishments to those that are obtained from animal shelters and rescue organizations will improve animals' lives and will reduce the cost to the public for sheltering such needy animals; and

WHEREAS, the Mayor and Council believe that a ban on the retail sale of dogs and cats procured from sources other than animal shelters and rescue organizations (or displayed in cooperation with animal shelters or rescue organizations) 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 Council of the Borough of Madison, In the County of Morris, and State of New Jersey as follows:

Section 1. Chapter 59 entitled "Animals and Rabies Control" shall be amended by creating Article 18 entitled "Regulation of Pet Sales", which shall read in its entirety as follows:

Article 18. Sale of Dogs and Cats

(a) Definitions.

Animal Care Facility shall mean 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.

Kennel shall mean any establishment wherein or whereon the business of boarding and/or breeding dogs or cats for sale is carried on, except a pet shop.

Kennel operator shall mean a person who owns or operates a kennel, or both.

Legally existing nonconforming use shall mean any pet store or pet store operator that displayed, sold, delivered, offered for sale, or otherwise disposed of dogs or cats in the Borough prior to the effective date of this Ordinance.

Pet Shop or Pet Store shall mean retail establishments open to the public wherein animals, including but not limited to dogs or cats, 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 shall mean a person who owns or operates a pet shop or pet store, or both.

Pound shall mean an establishment for the confinement of dogs or other animals seized either under the provision of N.J.S.A. 4:19-15.1 et seq. or otherwise.

Rescue Organization shall mean any facility where homeless, stray, abandoned, rescued or unwanted animals are received, harbored, maintained or made available for adoption to the general public and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of the cruelty to animals or other nonprofit or tax exempt organization devoted to the welfare, protection and humane treatment of animals.

(b) Prohibited acts; exceptions.

All pet shops, pet shop owners, kennels or kennel operators shall only sell, offer for sale, barter, auction, breed or otherwise dispose of dogs and cats in the Borough of Madison that were obtained from a licensed animal shelter or rescue organization or in cooperation with a licensed animal shelter or rescue organization.

No pet shop, pet shop owner, kennel or kennel operator may sell, offer for sale, barter, auction, breed or otherwise dispose of dogs and cats in the Borough of Madison that were acquired from a source other than a licensed animal shelter or rescue organization, unless said acquisition was in cooperation with a licensed animal shelter or rescue organization

No pet shop, pet shop owner, kennel or kennel operator may sell, offer for sale, barter auction, breed or otherwise dispose of dogs and cats in the Borough of Madison that are younger than eight weeks old.

This section shall not apply to legally existing nonconforming uses or to the adoption of dogs or cats, or both.

Nothing contained herein shall prohibit a shelter, pound or other establishment from keeping, displaying, selling or otherwise transferring any dog, cat or both, that has been seized, rescued or donated.

(c) Violations and penalties.

1. Any person who violates, or fails or refuses to comply with, any one or more provisions of this article shall be subject to a fine of not more than \$2,000, or up to the maximum amount permitted by state law, for each separate offense or confinement in the Morris County Jail for a period of not more than 90 days, or community service for a period of not more than 90 days, or any combination of fine, imprisonment and/or community service, as determined at the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be subject to penalties as provided herein for each separate offense.

2. The Violation of any one or more provisions of this article shall be subject to abatement, summarily by a restraining order or by injunction issued by a court of competent jurisdiction.

All Ordinances, or parts thereof, inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistency.

Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

This ordinance shall take effect upon its passage and publication according to law.

ADOPTED AND APPROVED

ROBERT H. CONLEY, Mayor

Attest:

ELIZABETH OSBORNE, Borough Clerk