

ORDINANCE 2019-19

*Borough of Metuchen
County of Middlesex
State of New Jersey*

ORDINANCE AMENDING THE LAND USE REGULATIONS AND CHAPTER 59, ENTITLED, “CATS AND DOGS” OF THE CODE OF METUCHEN TO: (1) PROHIBIT THE RETAIL SALE OF DOGS AND CATS EXCEPT FOR RESCUE OR DONATED ANIMALS, (2) TO INCREASE THE DOG AND CAT LICENSING FEES, AND (3) TO CLARIFY EXEMPTIONS TO THE REQUIRED PAYMENTS FOR DOG LICENSES

WHEREAS, a significant number of puppies and kittens sold at pet shops come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for (“puppy mills” and “kitten mills,” respectively).

WHEREAS, the documented abuses endemic to puppy and kitten mills include over-breeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of socialization; lack of adequate space; and lack of adequate exercise.

WHEREAS, the inhumane conditions in puppy and kitten mill facilities lead to health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing animals from pet shops due to both a lack of education on the issue and misleading tactics of pet shops in some cases. These health and behavioral issues, which may not present themselves until sometime after the purchase of the animals, can impose exorbitant financial and emotional costs on the consumer.

WHEREAS, current Federal, State and County regulations do not properly address the sale of puppy and kitten mill dogs and cats in pet shops.

WHEREAS, prohibiting the retail sale of puppies and kittens is likely to decrease the demand for puppies and kittens bred in puppy and kitten mills, and is likely to increase demand for animals from animal shelters and rescue organizations.

WHEREAS, according to the New Jersey Department of Health Animal Intake and Disposition Survey, thousands of dogs and cats are euthanized in New Jersey animal shelters annually. Restricting the retail sale of puppies and kittens to only those that are sourced from animal shelters and rescue organizations will likely reduce pet overpopulation and thus the burden on such agencies and financial costs on local taxpayers; and

WHEREAS, across the country, thousands of independent pet shops as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these shops collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, this Ordinance will not affect a consumer’s ability to obtain a dog or cat of his or her choice directly from a breed-specific rescue organization or shelter, or from a hobby breeder where the consumer can see directly the conditions in which the dogs and cats are bred or can confer directly with the hobby breeder concerning those conditions; and

WHEREAS, this governing body believes it is in the best interests of this municipality to adopt reasonable regulation to reduce costs to the municipality and its residents, protect the citizens of the municipality who may purchase cats or dogs from a pet shop or other business establishment, help prevent inhumane breeding conditions, promote community awareness of animal welfare and foster a more humane environment in the municipality; and

WHEREAS, the Mayor and Council also deem it in the best interest of the Borough of Metuchen to increase the dog and cat licensing fees, as well as to update and clarify the exemptions from payment of dog licensing fees to include “guide dogs” and “service dogs” as required by *N.J.S.A. 4:19-15.3*.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen in the County of Middlesex, State of New Jersey as follows:

Section 1. Chapter 110 of the Code of the Borough of Metuchen, specifically §110-4, entitled, “Definitions” is hereby amended as follows:

§ 110-4. Definitions.

RETAIL SHOP AND STORE The sale of goods, for use or consumption off of the premises, directly to the customer. Retail Shop and Store shall not include the sale of cats and/or dogs which is prohibited in all zones.

Section 2. Chapter 59 of the Code of the Borough of Metuchen, entitled “Animals”, Article 1, entitled. “Dogs and Cats”, specifically § 59-1, § 59-6, § 59-8, § 59-11, § 59-12(G), § 59-14, § 59-15, § 59-16, § 59-17, § 59-18, § 59-19, § 59-34, are hereby amended as follows:

§ 59-1. Definitions:

ANIMAL Dog or cat.

ANIMAL CARE FACILITY An animal control center or animal shelter, maintained by or under contract with any state, county or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes.

ANIMAL RESCUE ORGANIZATION Any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes.

ANIMAL CONTROL AUTHORITY Any person or agency designated or certified by the State of New Jersey to enforce the provisions of this article.

CAT Any member of the domestic feline species; male, female, neutered, spayed, or altered, Felis catus.

CAT OF LICENSING AGE Any cat which has attained the age of seven months or which possesses a set of permanent teeth.

~~CATTERY Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein cats for sale are kept or displayed.~~

COMMITTING NUISANCE The depositing of fecal matter.

DOG A member of a species of domestic dog, male, female, neutered, spayed or altered, Canis familiaris~~Any dog, bitch or spayed bitch.~~

DOG OF LICENSING AGE Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

GUIDE DOG Any dog used to assist persons who are deaf, or which is fitted with a special harness so as to be suitable as an aid to the mobility of a person who is blind, and is used by a person who is blind and has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities, including, but not limited to, those persons who are blind or deaf, as reputable and competent to provide dogs with training of this type.

KENNEL Any establishment wherein or whereon the business of boarding~~or selling dogs or breeding dogs for sale~~ is carried on, except a pet shop.

LICENSING AUTHORITY The agency or department of the Borough or any designated representative thereof charged with administration, issuance and/or revocation of permits and licenses under the provisions of this article.

NEUTERED Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

OFFER FOR SALE To sell offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

OWNER Includes every person having a right of property, or custody, in such cat or dog and every person who has such cat or dog in his or her keeping or who harbors or maintains a cat or dog or knowingly permits a cat or dog to remain on or about any premises occupied by that person.

PERSON Any individual, corporation, partnership, organization or institution commonly recognized by law as a unit.

PET SHOP OR PET STORE ~~Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed~~A retail establishment where dogs and cats are sold, exchanged, bartered or offered for sale as pet animals to the

general public at retail. Such definition shall not include an animal care facility or animal rescue organization, as defined.

POUND An establishment for the confinement of dogs seized either under the provisions of this article or otherwise.

SERVICE DOG Any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons with epilepsy or other seizure disorders.

SHELTER Any establishment where dogs are received, housed and distributed without charge.

§ 59-6. Fees; expiration dates.

A. The person applying for the license and registration tag of a dog shall pay an annual fee of ~~\$40~~ 13.80 plus such additional fees as established by the state and forwarded to the Department of Health. A fee of \$3 shall be added for unneutered dogs. For each annual renewal the fee for the license for the registration tag shall be the same as for the original license tag. The licenses, registration tags and renewals thereof shall expire on the last day of January of the following year.

B. Commencing March 1 of each year a late fee of \$5 will be added to the regular dog license fee.

§ 59-8. ~~Seeing Eye dogs~~ Guide Dogs and Service Dogs.

Dogs used as guide dogs or service dogs, as defined above and/or in N.J.S.A. 10:5-5, shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of a guide dog or service dog shall not be required to pay any fee therefor. A dog temporarily placed in a foster home as part of a formalized training to be a guide dog or service dog shall not be required to be licensed and registered while the dog remains in the foster home for such training. ~~Dogs used as guides for blind persons and commonly known as "Seeing Eye" dogs, dogs used to assist handicapped persons and commonly known as "service dogs" or dogs used to assist deaf persons and commonly known as "hearing ear" dogs shall be licensed and registered as other dogs, except that the owners or keepers of such dogs shall not be required to pay any fee therefor.~~

§ 59-11. Rabies vaccination of cats.

A. Applicability. No person shall own, keep, harbor or maintain any cat over seven months of age within the Borough, unless such cat is vaccinated and licensed. The provisions of this section do not apply to cats held ~~in a cattery, or those held~~ by a state or federal licensed research facility, or a veterinary establishment where cats are received or

kept for diagnostic, medical, surgical or other treatments or licensed animal shelters, pounds, an animal care facility, animal rescue organization, kennels or pet shops.

B. Vaccination. All cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunization" published by the National Association of State Public Health Veterinarians, except as provided for in Subsection D.

C. Certificate. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the state.

D. Exemptions. Any cat may be exempted from the requirement of such vaccination for a specified period of time by the Board of Health upon presentation of a veterinarian's certificate stating that because of an infirmity or other physical condition, or regimen of therapy, the inoculation of such cat shall be deemed inadvisable.

§ 59-12. Licensing of cats.

A.- G. Shall remain and not amended herein.

G. Fees. A license shall be issued after payment of a fee of ~~\$11.20~~15.00 for each unneutered cat and ~~\$8.20~~12.00 for each neutered cat. Persons who fail to obtain a license as required within the time period specified in this section will be subject to a delinquent fee of \$5, as well as such other penalties as provided in § 59-34 of this article.

H. – L. Shall remain and not amended herein.

§ 59-14. Kennels, pet shops, shelters and pounds.

Any person who keeps or operates or proposes to establish a kennel, a pet shop, an animal care facility, animal rescue organization, a shelter or a pound shall apply to the Secretary of the Board of Health for a license entitling him or her to keep or operate such establishment.

§ 59-15. Application for kennel, pet shop, shelter or pound license.

The application for a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound license shall describe the premises where the establishment is located or is proposed to be located, the purpose for which it is to be maintained and shall be accompanied by the written approval of the Health Officer of the Borough showing compliance with the local and state rules and regulations governing location of any sanitation at such establishments.

§ 59-16. Purpose of licenses; expiration.

All licenses issued for a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of the following year.

§ 59-17. Individual dog licenses; transferability.

Any person holding a license for a kennel, an animal care facility, animal rescue organization, ~~pet shop~~, shelter or pound shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishment. Such license shall not be transferable to another owner or different premises.

§ 59-18. Fees for kennels and pets shops.

The annual license fee for a kennel providing accommodations for 10 or less dogs shall be \$10 and shall be \$25 for more than 10 dogs. The annual license fee for a pet shop shall be \$45. No fee shall be charged for an animal care facility, animal rescue organization, a shelter or pound.

§ 59-19. Control of dogs in kennels and pounds.

No dog kept in a kennel, pet shop, an animal care facility, animal rescue organization, shelter or pound shall be permitted off such premises, except on leash or a crate or other safe control.

§ 59-34. Violations and penalties.

Any person who violates or refuses to comply with any provision of this article, except § 59-31 and § 59-35, shall be subject to a fine not exceeding \$500 or to imprisonment for a period not exceeding six months, except where punishable under state law.

Section 3. Chapter 59 of the Code of the Borough of Metuchen, entitled “Animals”, Article 1, entitled. “Dogs and Cats” is hereby amended creating § 59-35, and § 59-36 to state as follows:

§ 59-35. Restrictions on the Sale of Animals.

No pet shop or store shall sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of cats or dogs. Nothing in this section shall prohibit stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs and cats.

§ 59-36 Violations and Penalties.

Any person, firm or corporation who violates or neglects to comply with any provision of this section shall be subject to a fine of not more than \$2,000 for each separate offense, or incarceration 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. The violation of any one or more provisions of this article shall be subject to abatement summarily by a restraining order or by an injunction issued by a court of competent jurisdiction.

BE IT FURTHER ORDAINED by the Mayor and Council that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by the Mayor and Council that all prior ordinances, or sections of ordinances, inconsistent with the within ordinance are hereby repealed.

BE IT FURTHER ORDAINED by the Mayor and Council that all remaining sections of Chapters 110 and 59 not amended herein or inconsistent with the within ordinance shall not be affected thereby and shall remain in full force and effect.

BE IT FURTHER ORDAINED by the Mayor and Council that this ordinance shall become effective ninety (90) days after final passage.

Introduction: November 12, 2019
 Date of Publication: November 15, 2019

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
DELIA	X				PAGEL				X
HIRSCH	X				RASMUSSEN	X			
KOSKOSKI	X				RUBIN	X			
MOTION	KOSKOSKI			SECOND	RASMUSSEN				
X – INDICATES VOTE		AB- ABSENT			NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on November 12, 2019

 Susan D. Jackson, RMC
 Borough Clerk

Adopted:

Date of Publication:

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
DELIA					PAGEL				
HIRSCH					RASMUSSEN				
KOSKOSKI					RUBIN				
MOTION					SECOND				
X – INDICATES VOTE		AB- ABSENT			NV- NOT VOTING				

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on December 9, 2019

Susan D. Jackson, RMC
Borough Clerk

ATTEST:

Susan D. Jackson, RMC
Borough Clerk

BOROUGH OF METUCHEN

By: _____
Jonathan M. Busch
Mayor