

*THIS ORDINANCE WAS INTRODUCED ON SEPTEMBER 28, 2022. SUBSTANTIVE AMENDMENTS WERE MADE TO THIS ORDINANCE ON NOVEMBER 9, 2022 AND PRESENTED TO THE GOVERNING BODY FOR RE-INTRODUCTION ON DECEMBER 6, 2022.*

**PENDING ORDINANCE O-22-26  
TOWNSHIP OF MONTCLAIR**

**ORDINANCE TO AMEND CHAPTER 82 (ANIMALS) ARTICLE I (DOGS) AND TO ADD ARTICLE VIII (SALE OF ANIMALS) OF THE CODE OF THE TOWNSHIP OF MONTCLAIR**

December 6, 2022 (date of introduction)

December 20, 2022 (date of public hearing)

**WHEREAS**, current Federal, State, and Local regulations do not properly address the sale of puppy and kitten mill dogs and cats both in and out of pet stores; and

**WHEREAS**, a significant number of puppies and kittens sold at pet stores 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). According to the Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet store dogs and cats come from puppy mills and kitten mills; and

**WHEREAS**, the documented abuses endemic to puppy and kitten mills includes overbreeding; 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; and

**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 stores due to both a lack of education on the issue and misleading tactics of pet stores 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 consumers; and

**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; and

**WHEREAS**, prohibiting the retail sale of puppies and kittens 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 stores 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 stores collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

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

**WHEREAS**, the Council of the Township of Montclair believes it is in the best interests of Montclair to adopt reasonable regulations to reduce costs to the Township and its residents, protect the citizens of the Township who may purchase cats or dogs from a pet store or other business establishment, help prevent inhumane breeding conditions, promote community awareness of animal welfare, and foster a more humane environment in Montclair.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Montclair, the County of Essex, State of New Jersey that it hereby amends Chapter 82 of the Montclair Code by adding and adds a new article, Article VIII, ~~to read~~ as follows:

**ARTICLE I. DOGS**

§ 82-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DOG — Any ~~dog, bitch or spayed bitch~~ *member of the species *Canis familiaris*.*

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

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~~.

OWNER (when applied to the proprietorship of a dog) — Includes every person having a right of property in such dog and every person who has such dog in his or her keeping.

~~PET SHOP — Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed.~~

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§ 82-10. Kennel ~~or pet shop~~-license.

- A. Any person who keeps or operates or proposes to establish a kennel ~~or a pet shop~~ shall apply to the Municipal Clerk for a license entitling him or her to keep or operate such establishment.
- B. The application shall describe the premises where the establishment is located or is proposed to be located and the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the Health Officer of the

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Township, showing compliance with the local and state rules and regulations governing location of and sanitation at such establishments.

- C. ~~All Any~~ licenses issued for a kennel ~~or pet shop~~ shall state the purpose for which the establishment is maintained. Such licenses shall expire on the last day of January of each year and shall be subject to revocation by the Township on recommendation of the State Department of Health or of the Township Department of Health for failure to comply with the rules and regulations of the State Department or of the Township Department of Health governing them. No license shall be revoked unless the owner has been afforded a hearing by the State Department or by the Health Officer of the Township.
- D. No person holding such license shall be required to secure individual licenses for dogs owned by him or her and kept at such establishment. Such license shall not be transferable to another owner or different premises.

§ 82-11. Fees for kennels ~~and pet shops~~.

~~A.~~ The annual license fee for a kennel providing accommodations for 10 or fewer dogs shall be \$10, and for more than 10 dogs, \$25.

~~B. The annual license fee for a pet shop shall be \$25. [Amended 3-31-1987 by Ord. No. 87-11]~~

§ 82-12. Control of dogs by kennels ~~and pet shops~~.

No dog kept in a kennel ~~or pet shop~~ shall be permitted off such premises except on a leash or in a crate or under other safe control.

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§ 82-19. Violations and penalties.

- A. Any person who violates or fails or refuses to comply with § 82-2, 82-6, 82-8, 82-9, 82-10, 82-12 or 82-17 or with the rules and regulations promulgated by the State Department of Health governing the sanitary conduct and operation of kennels ~~or pet shops~~, to preserve sanitation therein and to prevent the spread of rabies and other diseases of dogs within and from such establishments, shall be liable to a penalty of not less than \$5 nor more than \$50 for each offense, to be recovered by and in the name of the Director of Health of the State of New Jersey or by and in the name of the Township, as the case may be, except that for the first offense in case of violations of §§ 82-2, 82-6 and 82-8, the penalty shall not be less than \$1 nor more than \$50, to be recovered in the same manner. A person who refuses or neglects to pay forthwith the amount of a judgment rendered against him or her and the costs and charges incident thereto may be committed by the Judge to the county jail for a period not exceeding 10 days in the case of the first conviction, and in the case of a second,

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subsequent or continuing violation, for a term not exceeding 30 days.

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**ARTICLE V. CATS**

§ 82-30. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANIMAL CONTROL AUTHORITY — Any person or agency designated or certified by the Township of Montclair to enforce the provisions of this article.

CAT — Any member of the ~~feline~~-species *Felis catus*, ~~male, female or altered~~.

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.~~

LICENSING AUTHORITY — The agency or department of the Township of Montclair or any designated representative thereof charged with administering the 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.

OWNER — When applied to the proprietorship of a cat, includes every person having a right of property (or custody) in such cat and every person who has such cat in his/her keeping or who harbors or maintains a cat or knowingly permits a cat to remain on or about any premises occupied by that person.

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§ 82-31. Rabies vaccination provisions.

- A. Vaccination and license requirements. No person shall own, keep, harbor or maintain any cat over seven months of age within the Township of Montclair 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 federally 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, kennels ~~or pet shops~~.

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**Article VIII. Sale of Animals**

§ 82-43. Definitions

For purposes of this Article:

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- A. *Retail pet store* means a commercial establishment that sells or offers for sale animals on its premises at retail.
- B. *Sell or offer for sale* means to display for sale or to exchange for consideration, adopt out, barter, auction, trade, lease, or otherwise transfer.
- C. *Animal rescue organization* means a non-profit organization incorporated under the law of any state and exempt from federal taxation under Section 501(c)(3) of the federal Internal Revenue Code, as amended, and whose principal purpose is the prevention of cruelty to animals and whose principal activity is to rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and to adopt them to good homes. "Animal rescue organization" does not include any entity that breeds animals or that (1) is located on the same premises as; (2) has any personnel in common with; (3) obtains, in exchange for payment or any other form of compensation, dogs or cats from; or (4) facilitates the sale of dogs or cats obtained from a person that breeds animals.
- D. *Animal shelter* means a facility, whether located in or outside the State of New Jersey, that is operated by or under contract with any State or a political subdivision of a State for the purpose of impounding or caring for seized, stray, homeless, abandoned, unwanted, or surrendered animals.

~~E. *Cat* means any member of the species *Felis catus*.~~

~~F. *Dog* means any member of the species *Canis familiaris*.~~

**§ 82-44. Sale or offer for sale of dogs or cats by ~~pet shops~~retail pet stores prohibited.**

- A. It is unlawful for a retail pet store, as defined in § 82-43, to sell or offer for sale a dog or a cat.
- B. Nothing in this section shall be construed to prohibit a retail pet store from providing space to an animal rescue organization or an animal shelter, as those terms are defined in § 82-43, to publicly showcase dogs or cats available for adoption.

**§ 82-45. Violations and Penalties.**

A retail pet store that violates § 82-44 shall, upon conviction thereof, be punished by a fine of \$500. Each sale or offer for sale made in violation of § 82-44 shall constitute a separate violation.

**§ 82-46. Severability.**

If any provision of this article is determined to be invalid by a court of competent jurisdiction, then such provisions shall be severed, and the remaining provisions of this article shall continue to be valid.

**~~§ 82-1 Definitions.~~**

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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. Kennels are prohibited from selling and/or breeding dogs.

PET SHOP

Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs for sale are kept or displayed. A Pet Shop is prohibited from selling and/or breeding dogs.

§ 82-10 Kennel or pet shop license.

C. All licenses issued for a kennel or pet shop shall state the purpose for which the establishment is maintained. Such licenses shall expire on the last day of January of each year and shall be subject to revocation by the Township on recommendation of the State Department of Health or of the Township Department of Health for failure to comply with the rules and regulations of the State Department or of the Township Department of Health governing them. No license shall be revoked unless the owner has been afforded a hearing by the State Department or by the Health Officer of the Township.

§ 82-11 Fees for kennels and pet shops.

B. The annual license fee for a pet shop shall be \$25.

§ 82-12 Control of dogs by kennels and pet shops.

No dog kept in a kennel or pet shop shall be permitted off such premises except on a leash or in a crate or under other safe control.