

ORDINANCE 2012-29 Restrict Pet Sales

ADOPTED: OCTOBER 9, 2012

ORDINANCE 2012-29

AN ORDINANCE OF THE BOROUGH OF POINT PLEASANT BEACH,
COUNTY OF OCEAN AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE
BOROUGH AT
CHAPTER V ENTITLED "LICENSING – GENERAL." TO PROHIBIT
THE RETAIL SALE OF DOGS AND CATS AND OTHER MAMMALS
IN PET STORES

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: over breeding; inbreeding; veterinary care that doesn't meet the same standards as other breeders; relatively poor quality of food and shelter; lack of human socialization; and overcrowded cages. 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 the Borough Council finds that, in addition to State and federal laws, the Borough of Point Pleasant Beach has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats; and

WHEREAS, the Borough Council believes that a community that promotes animal welfare will be a healthier community; and

WHEREAS, the Borough Council recognizes that not all dogs and cats retailed in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a "puppy mill" or "kitten factory," it is the Borough Council's belief that puppy mills and kitten factories continue to exist in part because of public demand for the sale of dogs and cats in pet stores; and

WHEREAS the Borough Council finds that the retail sale of dogs and cats in pet stores in the Borough of Point Pleasant Beach is inconsistent with the Borough's goal to be a community that cares about animal welfare; and

WHEREAS the Borough Council believes that a ban on the retail sale of dogs and cats in pet stores will provide community awareness of animal welfare and, in turn, will foster a more humane environment in the Borough of Point Pleasant Beach; and

WHEREAS the Borough Council believes that a ban on the retail sale of dogs and cats in pet stores in the Borough will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey as follows:

SECTION 1. Chapter V of the Borough Code, entitled "Licenses - General," shall be amended and supplemented by adding new section 5-23, entitled "Pet Store."

"5-23 Pet Stores.

5-23.1 Definitions.

"Legally existing nonconforming use" shall mean any pet store or pet store operator that displayed, sold, delivered, offered for sale, or otherwise disposed of cats or dogs in the Borough of Point Pleasant Beach prior to October 12, 2012.

"Pet Store" shall mean a retail establishment open to the public and engaging in the business of selling animals at retail. Any person who sells, exchanges, or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or

otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.

“Pet Store Operator” means a person who owns or operates a pet store, or both.

5-23.2 Sales Prohibitions.

No pet store operator or pet store shall sell, deliver, offer for sale, barter, auction or otherwise improperly dispose of cats, dogs or other mammals, other than hamsters, guinea pigs, mice, rabbits, gerbils, rats and ferrets in the Borough of Point Pleasant Beach. This section shall not apply to legally existing nonconforming uses or to the adoption of cats or dogs, or both. Nothing contained herein shall prohibit a shelter, pound or other establishment from keeping, displaying, selling or otherwise transferring any cat or dog, or both, that has been seized, rescued or donated.

5-23.3 Violations and penalties.

a. Any person who violates, fails or refuses to comply with any one or more provisions of Section 7-8 shall be subject to a fine of not more than \$2,000.00 for each separate offense or confinement in the Ocean County Jail for a period of not more than 90 days of 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.

b. The violation of any one or more provision of section 7-8 shall be subject to abatement, summarily by a restraining order of by injunction issued by a court of competent jurisdiction.

SECTION 2. In the event any section, part or provision of this Ordinance shall be held unconstitutional or invalid by any Court, such holding shall not affect the validity of this Ordinance or any remaining part of this Ordinance other than the part held unconstitutional or invalid.

SECTION 3. All ordinances or parts thereof, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of their inconsistencies.

SECTION 4. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at the regular meeting of the Borough Council of the Borough of Point Pleasant Beach, in the County of Ocean and State of New Jersey, held on the 18th day of September 2012 and will be considered for second reading and final passage at the regular meeting of said governing body to be held on the 9th day of October 2012 at 7:00 p.m. in the Council Chambers, Borough Hall, 416 New Jersey Avenue, Point Pleasant Beach, New Jersey at which time and place any person desiring to be heard will be given an opportunity to be so heard.

Published September 21, 2012 | [New Ordinances](#) | 1446

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