

**ORDINANCE 2019-1442**

**BOROUGH OF TINTON FALLS  
COUNTY OF MONMOUTH**

**ORDINANCE AMENDING CHAPTER XL OF THE BOROUGH CODE,  
ENTITLED “LAND USE REGULATIONS” TO PROHIBIT THE RETAIL SALE OF DOGS AND CATS EXCEPT  
FOR RESCUE OR DONATED ANIMALS**

**WHEREAS**, a significant number of dogs and cats sold at pet shops come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for (referred to as “puppy and kitten mills”). 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 shop dogs and cats come from puppy/kitten mills; and

**WHEREAS**, the documented abuses endemic to puppy/kitten mills include overbreeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of sanitation; lack of socialization; lack of adequate space; and lack of adequate exercise, lack of human contact; and

**WHEREAS**, the inhumane conditions in puppy/kitten mill facilities lead to a variety of serious health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing from pet shops due to both a lack of education on the issue and misleading and deceptive tactics of pet shops in most 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**, current Federal and State regulations do not adequately address the documented cruelty of puppy/kitten mills which is fueled through the sale of puppy/kitten mill produced dogs/cats in pet shops; and

**WHEREAS**, restricting the retail sale of dogs/cats to only those that are sourced and available for adoption from shelters or rescue organizations is likely to decrease the demand for dogs/cats bred in puppy/kitten mills, and is likely to increase demand for animals from animal shelters and rescue organizations; 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 of his or her choice directly from a rescue organization or a shelter, or from a legitimate licensed breeder where the consumer can see directly the conditions in which the dogs are bred, or can confer directly with the breeder concerning those conditions; and

**WHEREAS**, the Borough Council believes it is in the best interests of the Borough to adopt reasonable regulations to reduce costs to the Borough and its residents, protect the citizens who may purchase dogs from a pet shop, promote animal welfare awareness and foster a more humane environment in the Borough.

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

**SECTION 1.** Chapter XL of the Borough Code of Tinton Falls, entitled “Land Use Regulations,” shall be amended in Appendix A (“District Use Regulations – Non-Residential Uses”), as follows (underlined terms to be added):

**NC Neighborhood Commercial**

**Permitted Principal Uses**

1. Retail sales (excluding drive-thru service) such as, consumables, apparel, hardware, lawn & patio equipment, appliances, household goods, and confections, except for the sale of cats and dogs as further described in Chapter 8-5.

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**HCC Highway/Community Commercial**

**Permitted Principal Uses**

1. Retail sales such as, consumables, apparel, hardware, lawn and patio equipment, appliances, household goods, and confections, except for the sale of cats and dogs as further described in Chapter 8-5.

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**SECTION 2.** Chapter VIII of the Borough Code of Tinton Falls, entitled “Animal Control,” shall be amended to add a new Section 8-5, to be entitled, “Retail Sale of Dogs and Cats,” and which shall read as follows:

**8-5. Retail Sale of Dogs and Cats.**

**8-5.1 Definitions.**

*Animal care facility* means an animal control center or an 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 or rescue organizations.

***Animal rescue organization*** means 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.

***Cat*** means a member of the species of domestic cat, *Felis catus*.

***Dog*** means a member of the species of domestic dog, *Canis familiaris*.

***Pet shop*** means 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.

***Pet shop operator*** means a person who owns and/or operates a pet store.

### **8-5.2 Restrictions on the Sale of Animals**

As set forth in Chapter XL, "Land Use Regulations," Appendix A ("District Use Regulations – Non-Residential Uses"), no pet shop shall sell, offer for sale, barter, auction, breed or otherwise improperly dispose of cats or dogs, or both, in the Borough. Nothing contained herein shall prohibit an animal care facility, animal rescue organization, 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.

### **8-5.3. 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.

**SECTION 3.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

**SECTION 4.** Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 5.** This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

Introduced: March 6, 2019

Adopted:

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GARY A. BALDWIN  
COUNCIL PRESIDENT

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VITO PERILLO  
MAYOR

ATTEST:

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MELISSA A. HESLER  
BOROUGH CLERK

APPROVED AS TO FORM:

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KEVIN N. STARKEY, ESQ.  
DIRECTOR OF LAW