

AMENDMENT IN THE NATURE OF A SUBSTITUTION – Clerk Item No. 237-14

Introduced by Presiding Officer Norma L. Gonsalves, Deputy Presiding Officer Richard J. Nicoletto, Alternate Deputy Presiding Officer Howard J. Kopel, and Legislators Francis X. Becker, Dennis Dunne, Sr., Denise Ford, Donald MacKenzie, Vincent T. Muscarella, Laura Schaefer, Michael Venditto, and Rose Marie Walker.

LOCAL LAW NO. 11 - 2014

A LOCAL LAW TO REGULATE PET DEALERS AND PET STORES WITHIN NASSAU COUNTY.

Passed by the Nassau County Legislature on August 4, 2014
Voting: ayes: 12 nays: 7 abstained:

Became a law on August 6, 2014 with the approval of the County Executive.

FORM APPROVED
[Signature]
MAJORITY COUNSEL

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

Section 1. Short Title.

This law shall be known as the “Nassau County Pet Dealers and Pet Stores Law” and shall appear in the Miscellaneous Laws of Nassau County as Title 79.

§ 2. Legislative Intent.

This Legislature finds that Pet Dealers and Pet Stores located throughout Nassau County receive dogs and/or cats from breeders or brokers for the primary purpose of selling or trading these animals to individuals and families as pets.

This Legislature further finds that dog and cat breeders that provide these animals to Pet Dealers and Pet Stores vary in their treatment of them and in the manner in which they breed

new litters, and that some operate substandard commercial facilities that expose dogs and cats to inhuman and unsafe living conditions.

This Legislature further finds that Pet Dealers and Pet Stores also vary significantly in their treatment of the dogs and cats that they intend to sell, trade, or give away individuals and families.

This Legislature further finds that it can be difficult for individuals and families who wish to purchase a dog or cat from a Pet Dealer or Pet Store to ascertain how the animal was cared for by that Pet Dealer and by the breeder from which it originated while in their custody.

This Legislature further finds that on March 17, 2014, New York State Agriculture and Markets Law § 407 and New York State General Business Law § 753-d were amended to allow municipalities to enact legislation regulating, among other things, Pet Dealers and the source of animals sold or offered for sale by Pet Dealers, so long as the legislation is no less stringent than the New York State counterpart regulating the same.

This Legislature further finds that individuals and families who wish to purchase dogs and/or cats from a Pet Dealer or Pet Store located within Nassau County would benefit from both New York State and more stringent Nassau County regulation of Pet Dealers, as the enactment of both laws would ensure that their future cat or dog was maintained in a clean, safe, and humane environment prior to purchase.

Therefore, the primary purpose of this local law is to regulate Pet Dealers and Pet Stores located throughout Nassau County.

§ 3. Definitions. As used in this title:

(a) Animal: Cat or dog.

(b) Breeder: Any person who breeds nine or more animals per year.

- (c) Broker: Any person who imports, buys, sells, or trades cats, dogs, kittens, or puppies in wholesale channels. Brokers are not required to take physical possession of the animals to be deemed as such.
- (d) Exercise Enclosure: An area of confinement, including but not limited to a cage, run, kennel, stall, or pen, where animals are provided the opportunity to exercise.
- (e) Person: An individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.
- (f) Pet Dealer: Any person who engages in the sale or offering for sale of more than nine animals per year for profit within Nassau County, except for the following: (1) a breeder who sells or offers to sell directly to consumers fewer than twenty-five animals per year that were born and raised on the breeder's residential premises, and (2) duly incorporated humane societies dedicated to the care of unwanted animals that make such animals available for adoption, whether or not a fee is charged for the adoption.
- (g) Pet Store: A business establishment owned and/or operated by a pet dealer.
- (h) Primary Enclosure: An area of confinement, including but not limited to a cage, run, kennel, stall, or pen, where an animal eats, sleeps, and in most sheltering situations spends the majority of its time.
- (i) USDA: United States Department of Agriculture.

§ 4. General Requirements.

- (a) No animal shall be offered for sale, trade or give-away by a Pet Dealer or Pet Store unless the animal is at least eight (8) weeks old, is in good health and has been weaned from its mother.
- (b) No pet dealer shall obtain animals originating from a breeder who has received and failed to cure the following violations by the deadline set by the USDA: 1) one direct violation from the USDA within the past year, 2) three or more different indirect violations, other than “no access violations” within the past year, or 3) one or more reoccurring indirect violations within the past year.
- (c) No pet dealer shall obtain animals originating from a breeder who has received “no access” violations on the two most recent inspection reports from the USDA.
- (d) Any animal offered for sale, trade or free adoption by a Pet Dealer or Pet Store shall have daily access to appropriate amounts of clean, fresh water and clean, fresh food.
- (e) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall, upon request of the prospective consumer, make available a copy of the most recent inspection reports conducted by the USDA and the animal’s state of origin of the breeder and/or broker from which the subject animal came if such breeder or broker is required to be licensed by the USDA. If the animal did not originate from a breeder and/or broker that is legally required to be licensed by the USDA, the Pet Dealer, upon request, shall provide the prospective customer with the name and address of the breeder and/or broker

where the animal originated, as well as the birth date of the animal and certificate of health from a licensed veterinarian. Pet Dealers and Pet Stores shall post the statement "USDA inspection reports and information regarding brokers and breeders are available upon request" on the bottom of signs required pursuant to New York State General Business Law § 753-b and shall be subject to the same standards of readability.

(f) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall retain each invoice they receive from the broker or breeder from whom they obtain their animals for a period of at least two years. A copy of the invoice must be provided to the Office of Consumer Affairs upon the Department's request.

(g) Any Pet Dealer or Pet Store offering animals for sale, trade or give-away shall make sterilization services available to the consumer for animals sold at an age at which such procedures may be performed safely. Consumers shall be responsible for any costs associated with utilizing such services.

§ 5. Primary Animal Enclosure Requirements for Pet Dealers.

(a) The required floor space for each animal in a primary animal enclosure, exclusive of food and water receptacles, shall be at least the number that results from making the following calculation: (length of the largest animal in inches measured from nose to tail +6)² divided by 144 = required floor space in square feet. For a single animal housed in an enclosure alone, the enclosure's floor space shall be a minimum of 2 square feet, provided the calculation above would result in a smaller space.

- (b) The interior height of the primary enclosure must be at least six inches higher than the head of the tallest animal when it is in a normal standing position.
- (c) Any enclosure made from wire must contain a resting board of sufficient size for the contained animals to lie, stretch, walk and stand without touching other animals and without touching the sides of the containment structure or wire.
- (d) Animal enclosures shall be stacked no more than 2 enclosures high. The top most stacked enclosure must have a solid floor that will not permit food or debris to fall into any lower cage.
- (e) Any primary animal enclosure shall have a tag with the following information about each animal who is housed therein:
 - 1. Breed of the animal, if known;
 - 2. Sex of the animal;
 - 3. Color or other identifying markets;
 - 4. Date of the animal's birth;
 - 5. Date of arrival to the Pet Dealer or Pet Store;
 - 6. The name, state and USDA license number of the breeder; and
 - 7. The name, state and USDA license number of the broker, if applicable.

However, if a microchip has been implanted into an animal and that microchip provides information set forth in §§ 4(e)(1) through 4(e)(7) when scanned by a Pet Dealer or Pet Store, the tag described in this paragraph is not required for the animal with the implanted microchip.

§ 6. Exercise Enclosures

The required space for each animal contained within an exercise enclosure is as follows:

- (a) For exercise enclosures containing one animal, the size must be at least 2.5 times the required measurements for primary enclosures for that animal as set forth in sections 4(a) and 4(b) of this local law, and
- (b) For exercise enclosures containing two or more animals, the size must be at least 1.5 times the required space for each of these animals if maintained separately under the minimum requirements set forth in sections 4(a) and 4(b) of this local law.

§ 7. Exemption.

Pet Dealers and Pet Stores may use animal enclosures that are stacked three enclosures high if they were purchased and installed by the Pet Store or Pet Dealer prior to the effective date of this law, provided that they have solid floors between each level, but this exemption will lapse and terminate five years after this law's effective date. All other requirements associated with animal enclosures shall remain in effect.

§ 8. Euthanasia

No animal shall be euthanized pursuant to New York State Agriculture and Markets Law § 401(5)(d) without a written certification from a veterinarian stating that the animal suffers from a congenital or hereditary condition, disease, or illness that requires euthanasia.

§ 9. Enforcement.

- (a) This law shall be enforced by the Nassau County Office of Consumer Affairs.

(b) The Nassau County Office of Consumer Affairs shall inspect each pet store at least once annually and shall make additional inspections of any pet store should it observe or receive credible evidence of violations.

(c) NCSPCA shall be empowered to conduct inspections on behalf of the Nassau County Office of Consumer Affairs, and shall report to the Nassau County Office of Consumer Affairs any violations identified pursuant to this law.

§ 10. Rules and Regulations

The Commissioner of the Nassau County Office of Consumer Affairs is authorized to promulgate such rules and regulations as deemed necessary to implement the provisions of this local law.

§ 11. Penalties.

Any Pet Dealer or Pet Store that violates any provision of this law shall be assessed a civil fine of up to \$500 for the first violation, up to \$1,000 for the second violation, and up to \$1,500 for every violation thereafter. Each individual violation of the provisions shall be considered a separate and distinct offense, and each day that a violation is committed or is permitted to continue constitutes a separate offense and is punishable as such.

§ 12. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership,

entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 13. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the New York Code of Rules and Regulations (NYCRR) and within the meaning of section 8-0109(2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection.

§ 14. Effective Date.

This law shall take effect immediately.

APPROVED



County Executive

DATE Aug. 6, 2014