

**ORDINANCE NO. O2016.12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 6 OF THE TEMPE CITY CODE RELATING TO ANIMALS, IN GENERAL, BY ADDING A NEW ARTICLE III, RELATING TO THE PROHIBITION ON THE SALE OF CATS AND DOGS.**

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WHEREAS, the residents of the City of Tempe, Arizona, bear significant cost for treating and rescuing sick, injured, abandoned and endangered animals for shelter and veterinary services;

WHEREAS, the prohibition on the sale of cats and dogs, except for private breeders, would result in a reduction of the number of abandoned and endangered animals that are forced into shelters such as those established by the Maricopa County Animal Care & Control Service Agency, the Arizona Humane Society and other privately-run shelters;

WHEREAS, the prohibition on the sale of cats and dogs, except for private breeders, would result in a reduction of the attendant costs to Tempe residents for abandoned and endangered animals' treatment and shelter; and,

WHEREAS, the prohibition on the sale of cats and dogs, except for private breeders, would result in an increased opportunity for the fostering and adoption of abandoned and endangered animals in Tempe.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

**Section 1.** That Chapter 6, Article III, of the Tempe City Code is hereby added as follows:

**Sec. 6-54. PROHIBITION ON SALE OF CATS AND DOGS.**

(A) DEFINITIONS:

- (1) *ANIMAL RESCUE ORGANIZATION* MEANS ANY NONPROFIT ORGANIZATION PROPERLY REGISTERED UNDER § 501(c)(3) OF THE

INTERNAL REVENUE CODE, WHOSE MISSION, IN WHOLE OR IN PART IS THE PLACEMENT OF RESCUED DOGS OR CATS.

- (2) *ANIMAL SHELTER* MEANS ANY ESTABLISHMENT MAINTAINED BY MARICOPA COUNTY, THE CITY OF TEMPE, OR ANY OTHER CITY, COUNTY, OR STATE FOR THE CONFINEMENT AND MAINTENANCE OF RESCUED DOGS, CATS, AND OTHER ANIMALS THAT COME INTO THEIR CUSTODY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES TOGETHER WITH ANY ESTABLISHMENT MAINTAINED BY A NONPROFIT ORGANIZATION FOR THE RELIEF OF SUFFERING OF DOGS AND OTHER ANIMALS PROVIDED THAT SUCH ESTABLISHMENT MAINTAINS FACILITIES UNDER THE SUPERVISION OF A LICENSED VETERINARIAN FOR THE CONFINEMENT, MAINTENANCE, SAFEKEEPING AND CONTROL OF DOGS AND OTHER ANIMALS THAT COME INTO ITS CUSTODY.
- (3) *PET DEALER* MEANS ANY PERSON WHO OWNS OR OPERATES A PET SHOP.
- (4) *PET SHOP* MEANS A COMMERCIAL ESTABLISHMENT THAT ENGAGES IN A FOR-PROFIT BUSINESS OF SELLING AT RETAIL CATS, DOGS, OR OTHER ANIMALS. PET SHOP DOES NOT MEAN A PUBLICLY OPERATED POUND OR A PRIVATE, CHARITABLE NONPROFIT HUMANE SOCIETY. PET SHOP DOES NOT MEAN A TRANSACTION OF AN ISOLATED NATURE MADE BY A PERSON WHO NEITHER REPRESENTS HIMSELF OR HERSELF TO BE NOR IS ENGAGED IN A BUSINESS SUBJECT TO A TAX IMPOSED BY THE TEMPE CITY CODE, CHAPTER 16.

(B) NO PET SHOP OR PET DEALER SHALL DISPLAY, SELL, DELIVER, OFFER FOR SALE, BARTER, AUCTION, GIVE AWAY, BROKER, OR OTHERWISE TRANSFER OR DISPOSE OF A DOG OR CAT, UNLESS THAT DOG OR CAT WAS OBTAINED FROM:

- (1) AN ANIMAL SHELTER;
- (2) A PRIVATE, CHARITABLE, NONPROFIT HUMANE SOCIETY OR PUBLICLY OPERATED NONPROFIT ANIMAL RESCUE ORGANIZATION; OR
- (3) AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY OR NONPROFIT ANIMAL RESCUE ORGANIZATION THAT OPERATES OUT OF OR IN CONNECTION WITH A PET SHOP.

(C) ALL PET SHOPS AND PET DEALERS ARE REQUIRED TO MAINTAIN RECORDS, FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ACQUISITION,

LISTING THE SOURCE OF ALL DOGS OR CATS UNDER THEIR OWNERSHIP, CUSTODY OR CONTROL, IN A FORM PRESCRIBED BY THE CITY MANAGER. RECORDS SHALL BE IMMEDIATELY AVAILABLE, UPON REQUEST, TO LAW ENFORCEMENT, CODE COMPLIANCE OFFICIALS, AND ANY OTHER CITY EMPLOYEES CHARGED WITH ENFORCING THE PROVISIONS OF THIS SECTION.

(D) THIS SECTION DOES NOT APPLY TO:

- (1) A PERSON OR ESTABLISHMENT WHICH DISPLAYS, SELLS, DELIVERS, OFFERS FOR SALE, BARTERS, AUCTIONS, GIVES AWAY, BROKERS, OR OTHERWISE TRANSFERS OR DISPOSES OF ONLY DOGS OR CATS, DIRECTLY TO THE GENERAL PUBLIC AT RETAIL, THAT WERE BRED AND REARED ON THE PREMISES OF THE PERSON OR ESTABLISHMENT, OF NO MORE THAN TWO (2) LITTERS PER YEAR TOTAL;
- (2) AN ANIMAL SHELTER;
- (3) A PRIVATE, CHARITABLE, NONPROFIT HUMANE SOCIETY OR PUBLICLY OPERATED NONPROFIT ANIMAL RESCUE ORGANIZATION; OR
- (4) AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY OR NONPROFIT ANIMAL RESCUE ORGANIZATION THAT OPERATES OUT OF OR IN CONNECTION WITH A PET SHOP FOR ADOPTING ANIMALS TO THE PUBLIC ON A COST-RECOVERY BASIS ONLY.

(E) NOTHING IN THIS SECTION SHALL PREVENT A PET SHOP OR PET DEALER FROM PROVIDING SPACE AND APPROPRIATE CARE FOR ANIMALS OWNED BY AN ANIMAL SHELTER, NONPROFIT HUMANE SOCIETY OR NONPROFIT ANIMAL RESCUE AGENCY AND MAINTAINED AT A PET SHOP FOR THE PURPOSE OF ADOPTING THOSE ANIMALS TO THE PUBLIC ON A COST-RECOVERY BASIS ONLY.

(F) RECORDS OF ACQUISITION AND ADOPTION PURSUANT TO SUBSECTION (C) SHALL BE RETAINED FOR A PERIOD OF ONE (1) YEAR TO CONFIRM COMPLIANCE WITH THIS SECTION. SUCH RECORDS ARE SUBJECT TO AUDIT AND REVIEW BY THE CITY MANAGER OR DESIGNEE, UPON REASONABLE REQUEST BY THE CITY.

(G) VIOLATION OF THIS ARTICLE SHALL CONSTITUTE A CIVIL OFFENSE, AND SHALL RESULT IN A PENALTY OF UP TO FIVE HUNDRED DOLLARS (\$500) PER OCCURANCE AND SHALL BE ADMINISTERED PURSUANT TO SECTIONS 1.7 THROUGH 1.10 OF THIS CODE.

**Section 2.** Pursuant to the Tempe City Charter, Section 2.12, this ordinance shall be effective ninety (90) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA this \_\_\_\_ day of \_\_\_\_\_, 2016.

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Mark W. Mitchell, Mayor

ATTEST:

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Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

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Judith R. Baumann, City Attorney