**Legistar File No. 90423 Alder Duncan Proposed Alternate**

DRAFTER'S ANALYSIS: The newly created ordinance prohibits the sale of cats or dogs in retail pet stores and provides a penalty for violations.

The proposed ALTERNATE adds rabbits and guinea pigs to the ordinance, and adds the prohibition of the display of dogs, cats, rabbits and guinea pigs to the ordinance.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 23.65 entitled "Pet Sales Prohibited" of the Madison General Ordinances is created as follows:

**23.65 PET SALES PROHIBITED**

(1) Prohibition on Sale of Cats, ~~or~~ Dogs, Rabbits or Guinea Pigs. No retail pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats, ~~or~~ dogs, rabbits or guinea pigs, except that retail pet stores may provide space for the display of dogs, cats, guinea pigs or rabbits available for adoption by public animal control facility or shelter or an animal rescue organization so long as the retail pet shop receives no part of any fees associated with the display or adoption of the animals and has no ownership interest in any of the animals displayed or made available for adoption. ~~Nothing in this section shall prohibit pet stores from collaborating with animal control facilities, animal shelters, or animal rescue organizations to offer space for such entities to showcase adoptable dogs, cats, or provided the pet store shall not have any ownership or otherwise pecuniary interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals. Dogs may not be kept overnight.~~

(2) Definitions.

(a) "Animal control facility" as defined under Wis. Stat. § 173.41(1)(a) means a facility for the care of animals operated under a contract with a political subdivision under ~~s.~~ Wis Stat. §173.15 (1).

(b) "Animal ~~rescue organization~~ Rescue Organization" means ~~a not for profit~~ any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue who is primarily devoted to the receiving, harboring, and rehousing of homeless, stray, abandoned, or rescued animals. An animal rescue organization does not include organizations that obtain animals from a breeder or broker for compensation or profit.

(c) "Animal ~~shelter~~ Shelter" as defined under Wis. Stat. § 173.4(1)(b) means a facility that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least twenty-five (25) dogs in a year, and that is operated by a humane society, animal welfare society, animal rescue group, or other nonprofit group.

(d) "Cats" mean domesticated cats of the subspecies *Felis catus*.

(e) "Dogs" mean domesticated dogs of the subspecies *Canis familiaris*.

(f) "Rabbits" mean domesticated rabbits of the subspecies Oryctolagus *cuniculus domesitucs*.

(g) "Guinea Pigs" mean domesticated guinea pigs of the subspecies *Cavia porcellus*.

(~~f~~ h) Retail Pet Store" means a commercial establishment where animals are sold, exchanged, bartered or offered for sale to the general public at retail. Such definition shall not include an animal control facility or animal shelter, as defined.

(3) Penalty. Any retail pet store that violates this section shall be subject to a civil penalty of not more than $1,000 for the first offense and may be required to forfeit not less than $200 nor more than $2,000 for the second or any subsequent offense within five (5) years. Each dog or cat offered for sale in violation of this section shall constitute a separate violation, and the allocation of space that facilitates a violation of this section shall constitute a separate violation.

(4) Severability. Each provision or any portion of this section shall be considered separable, and the finding of the invalidity of any portion by a court of competent jurisdiction shall not affect the validity or enforceability of any other portion."

2. Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating therein the following:

| "Offense | Ord. No./Adopted Statute No. | Deposit * |
|---|---|---|
| Pet sales in retail pet stores | 23.65 | $1,000 1st<br>$1,500 2nd within 5 years<br>$2,000 3rd and subs. within 5 years" |

**EDITOR'S NOTE:**
*New and updated bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.

3. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

| "Enforcement Official | Ordinance Chapter or Section and Title |
|---|---|
| Director of Public Health Madison and Dane County or their designee and Police Department. | Chapter 7, Public Health; Section 9.05, Adult Entertainment Establishments; Section 23.05, Smoking Prohibited in Certain Public Areas; Section 23.12, Transient Hotels and Motels Regulated; Section 23.38, Possession of Tobacco Products by Children; Section 23.385, Sale of Tobacco Products to Children Forbidden; Section 23.44, Consumers to Be Offered Selection of Containers; Section 23.61, Internet Solicitation of Unlicensed Regulated Businesses; Section 23.65, Pet Sales Prohibited; Section 23.66, Prohibiting Declawing Procedures." |