



MEMORANDUM

TO: Trustee Laura Fitzpatrick, Chairperson
Economic & Community Development Committee Members

FROM: William J. Heniff, AICP, Director of Community Development *WJH*

DATE: October 14, 2013

SUBJECT: **Animal Sale Regulations**

The Village has been approached by a non-profit animal welfare and rescue organization (Companion Animal Protection Society, or CAPS) regarding regulations that pertain to the care and sale of animals. The non-profit organization is advocating that the Village take additional regulatory steps to address their concerns pertaining to the care of animals for sale. Specifically, they would like the Village to adopt additional regulations to control and/or restrict the sale of animals (primarily dogs from puppy mills). As this request pertains to regulations of business activity, staff is bringing this matter to the Economic and Community Development committee (ECDC) for discussion and consideration.

BACKGROUND

The Village of Lombard regulates animals in two primary areas of the Village Code. The Zoning Ordinance (Chapter 155) establishes regulations as to the permissible location of animal sales (i.e., pet stores), while Chapter 90 establishes regulations regarding the nature, quantity and care of animals. Should an animal not be properly cared for or abandoned, Sections 90.42 through 90.46 of the Village Code provides the ability of the Police Department to investigate reported violations to the aforementioned sections. These provisions would pertain to animals that are within the corporate limits of the Village.

The State of Illinois Department of Agriculture has jurisdiction with respect to commercial animal operations and serves as a general clearinghouse for all inquiries pertaining to the health and quality of care for animals. The Department of Agriculture has a field staff that performs inspections of properties, represented to be at least three times a year, through their licensing and registration process.

REQUEST

CAPS has raised concerns regarding the care of animals, particularly puppies/dogs, that are housed and bred in a manner they deem to be inappropriate, or in common parlance "puppy mills", as well as stores that do not meet the provisions set forth in state statutes. They also expressed a desire to limit or restrict the commercial sale of dogs bred through puppy mills in retail shops. They note that they through public awareness campaigns they have had success in

reducing the number of dogs sold in retail stores in which they represent receive their animals through puppy mills.

One principal area of concern pertains to the temporary sale of dogs at events such as flea or farmer's markets. In these instances, they have raised concerns that the transport and sale of dogs by temporary operators is not desirable as the animals may not be properly cared for and cannot be readily checked for proper health. Of particular note, they reference a past instance in Villa Park where such activity was occurring and advocated that the Village of Villa Park adopt an ordinance placing limitations upon such sales. Their Village Board adopt an ordinance last year (Ordinance 3716) that, among other things, set forth the following requirements:

- A license issued by State of Illinois (Illinois Animal Welfare Act)
- Operators must be located entirely within a permanent building owned or leased for more than one year.
- Must comply with the Humane Care of Animals Act.

Per Villa Park staff, he stated the main purpose and intent of their ordinance was to limit the sale of animals in a flea market setting and the ordinance achieved this effect. They have not actively pursued the provisions set forth in their ordinance for compliance, as they work on a complaint basis and do not have staffing to proactively address other issues.

As noted earlier, CAPS would like to see Lombard take steps to actively and/or aggressively limit the sale of dogs from puppy mills. If such puppy mills were located within the Village, staff believes that existing regulations would be able to address such concerns. However, as these animals are located elsewhere, often out of state, the Village does not have jurisdiction to pursue the matter. However, they are seeking local regulations as they do not believe that the state has adequately met their responsibilities set forth within State Statute.

ISSUES FOR LOMBARD/ECDC

As the request would be a type of business regulation, staff is bringing the matter for review by the ECDC. Past practice is to invite all business affected by the legislation to be invited and provide testimony and comment on any such regulations. The ECDC would then make a recommendation to the Village Board. Such review of any such legislation will also require Village attorney review.

Staff offers the following issues:

- The need for local regulation to supplement/supersede state regulation. The aforementioned provisions fall under the provisions established by the State of Illinois. To ensure strict compliance with these provisions would require regular and ongoing inspections.

- If much broader regulations are adopted, Lombard will be also responsible for local enforcement. Active enforcement would likely require additional staff personnel, or contracted services, trained in animal care regulations. This will likely require full local licensure/registration process to help offset costs. However, such licensure/registration will likely not cover the full costs of enforcement.
- From Lombard's standpoint, the Village would not authorize flea markets as a matter of right within the Village. They could only be approved through a public hearing process (conditional use or text amendment) by the Plan Commission and Village Board approval.
- Prohibitions on the commercial sales of animals (i.e., prohibiting the pet shop use) would need to be addressed through the Plan Commission public hearing process. However, as a land use issue, it would be difficult to justify why the commercial sale of animals is not an appropriate land use, although the care and boarding of animals would be appropriate. Moreover, as an indoor retail commercial enterprise, the negative externality of pet shops is generally not any more prevalent than other land uses. Although an exemption was offered to allow for sales of animals through a 501c3 organization, as some do, the dog ownership status is not germane to the land use issue.
- While the argument has been made that prohibitions would decrease the activities, staff would argue that this could result in prospective business operators and their companion sales to locate elsewhere.
- The primary concern relates to the production of the animals themselves outside of the Village. Local governments traditionally do not have a role in banning the sales of product because of the manufacturing practices may not be acceptable (i.e., the Village would not reviewing all of the apparel shops in Lombard to check to see if the clothing was manufactured by child labor). However, if such activities were occurring in the Village, the Village can be more pro-active.

RECOMMENDATION

The State already has given the regulatory authority to the Illinois Department of Agriculture and that the State already has professional trained in the matter, staff's initial recommendation is to provide an informational outreach campaign to interested parties. This can include links on our web site as well as brochures available at the Village Hall. Most importantly, it will include the proper contact hot line number with the state (217)782-6657 that can respond to inquiries.

Regarding local regulatory issues, staff can conceptually support limitations and/or prohibitions on commercial sale of animals when done in the confines of temporary sales events, such as flea markets, farmers market and the like. The justification for such a regulation could be to help ensure that animals are humanely treated and concerns raised by CAPS or within existing code are met. Staff has discussed this matter with Village Counsel and counsel has recommended that such a regulation is possible.

ACTION REQUESTED

This item is being placed on the October 14, 2013 ECDC agenda for discussion and direction. Staff is seeking direction as to the level of desirability for additional regulations pertaining to the sale of animals within the Village. Staff is conceptually supportive of an additional provision within Section 90 of the Village code to limit or restrict the sale of animals associated with special events such as flea markets, farmer's market and the like. Staff can also support an exemption for humane associations to have animals on site if associated with the outreach effort of the organization (i.e., having a greyhound on site for a greyhound rescue organization, with the ability of said animals to be adopted separately from the temporary event).



Companion Animal Protection Society

Thank you for giving us this opportunity to discuss an ordinance we would like you to take into consideration. As representative of The Companion Animal Protection Society (CAPS), I am proposing the attached ordinance that Villa Park passed.

Founded by President Deborah Howard in 1992, CAPS is the only national non-profit organization dedicated exclusively to protecting companion animals from cruelty in pet shops and puppy mills. CAPS actively addresses the abuse and suffering of pet shop and puppy mill dogs through investigation, education, media relations, legislative involvement, puppy mill dog rescues, consumer assistance and pet industry employee relations.

Our West Hollywood California ordinance banning the sale of pet shop puppies and kittens received worldwide media coverage and was the genesis for the now growing ordinance movement in both the United States and Canada. There are ordinances banning the sale of pet shop puppies and kittens in 32 cities. Los Angeles being the biggest, and San Diego being the latest as of May 2013.

We understand Lombard is a non-home rule city, and so is Villa Park. We would like you to consider this ordinance to avoid future pet shops that sell commercially bred puppies and kittens from opening in Lombard. On that note, perhaps there is something we could adjust, add, change in this ordinance, to prohibit Happiness Is Pets from selling their puppy mill dogs.

We also have reason to believe there are puppy millers coming here from Missouri selling puppies in the old KMart parking lot and at the McDonald's on Roosevelt Road in Lombard. This ordinance would also cover dogs being sold in parking lots, farmers markets and flea markets.

In 2010, in Illinois alone, over 9565 dogs and 15,796 cats were euthanized. These figures are only from 6 kill shelters. We put down one dog every 10 seconds in the United States, approximately 4 million companion animals are killed in our country every year. On petfinder.com there are over 180,000 dogs up for adoption in Illinois. There is no reason for pet stores to sell commercially bred sick puppies to unsuspecting customers.

In 2006 Happiness Is Pets sold 8000 puppies. In 2011 they sold 4750. Sales are going

down, awareness is being spread. We wonder how many of those dogs are now in our shelters. Happiness Is Pets had a distemper outbreak at their stores in January 2012. Distemper is the leading cause of infectious disease deaths in dogs worldwide. It's highly contagious and spread through inhalation. Vaccination is nearly 100% effective against distemper. A vaccinated mother dog will pass it on antibodies to her babies. Puppy mill dogs are rarely, if ever, vaccinated. There is now a class action lawsuit pending against all 5 Happiness Is Pets locations. I have personally spoken to almost 200 people about the sick and dying dogs they have purchased from this pet store.

There is a wave of awareness spreading across the country. This dirty little secret is finally being exposed. Villa Park is the first city in Illinois to pass an ordinance, Oswego followed, and now we are asking Lombard to do the same. Let's do the right and humane thing. Help us speak up for the dogs who cannot speak for themselves.

If anyone has any questions, please feel free to contact me. Thank you again for giving us this opportunity.

Ida McCarthy
Companion Animal Protection Society
Chicago Campaign Coordinator
www.caps-web.org
Direct Line - 630-479-4673
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After speaking to almost 200 people last year, here are the diseases the dogs were sold with:

Pneumonia, Liver Shunts, Hip Dysplasia, Perthes Disease, Distemper, Mouth Cancer, Tumors, Microvascular Dysplasia, Kennel Cough, Blindness, Umbilical Hernia, Urinary Tract Infections, Giardia, Behavior Issues, Wrong Breeds, Bacterial Infections, Mange, Skin Problems, Pelvic Bladder, Digestive Problems, Head Seizures, Hip Problems, Encephalitis, Yeast Infections, Luxating Patellas, Allergies, Thyroid Problems, Aural Atresia, ACL Surgeries, Cherry Eyes, etc.

A few people bought a dog during the distemper outbreak and when they brought the puppy home, the dog they already had caught distemper and died.

This is an ongoing issue, we receive complaints almost weekly.

Ordinance No. 3716

AN ORDINANCE OF THE VILLAGE OF VILLA PARK, DUPAGE COUNTY, ILLINOIS ESTABLISHING LICENSE AND SANITATION REQUIREMENTS FOR PET SHOPS AND KENNELS

WHEREAS, the Village of Villa Park (the "*Village*") is a duly organized and validly existing non home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, Section 11-20-9 of the Illinois Municipal Code (65 ILCS 5/11-20-9) authorizes the Village to license and regulate dogs and other animals in the Village; and,

WHEREAS, the Village desires to require pet shops and kennels to obtain licenses issued by the State of Illinois and to comply with animal welfare regulations; and,

WHEREAS, the Village desires that all pet shops be operated from a permanent building and not by itinerant merchants at temporary locations such as farmer's markets, flea markets or parking lots of other businesses.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Villa Park, DuPage County, Illinois, as follows:

Section 1. That Section 5-111 of the Villa Park Municipal Code, as amended, be and is hereby added to read as follows:

"Sec 5-111 Pet Shops and Kennels – License and Regulations

A. No person shall engage in the business of pet shop operator or kennel operator or any combination thereof without a license issued by the State of Illinois in accordance with the Illinois Animal Welfare Act (225 ILCS 605/1 et seq.)

B. No person shall operate a pet shop unless that pet shop is located entirely within a permanent building owned or leased for not less than one (1) year by the pet shop operator and in compliance with this Municipal Code.

C. All pet shop operators and kennel operators shall:

(1) Comply with all sections of the Humane Care for Animals Act (510 ILCS 70)

(2) Have covered, leak-proof containers available for storage of waste materials before disposal to control vermin and insects. Such containers shall be maintained in a sanitary condition.

(3) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin

(4) Provide water from a source having sufficient pressure to properly sanitize and clean the facility and equipment.

- (5) Provide hand washing facilities**
- (6) All buildings shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for their waste to avoid exposure to healthy and salable animals**
- (7) Floors of buildings housing or displaying animals shall be able to be thoroughly cleaned and sanitized. Cleaning shall be performed daily, or more often if necessary, to prevent any accumulation of debris, dirt or waste**
- (8) Cages shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing. The cages must be cleaned and sanitized at least once daily or more often if necessary. All empty cages shall be kept clean at all times. Cages shall be of sufficient size to allow the animal to comfortably stand, sit, or lie and offer freedom of movement**
- (9) Runs shall be constructed of material of sufficient strength and design to confine the animals. They shall be kept in good repair and condition. For new construction or remodeling, the licensee shall provide runs surfaced with concrete or other impervious material. Surface of the run shall be designed to permit the surface to be cleaned and kept free from excessive accumulation of animal waste. Provisions must be made for adequate drainage, including gutters and discharge of any fluid or content into a sewer, septic tank or filter field, and shall comply with this Code.**
- (10) Cages or aquariums for housing of small animals, birds, or fish shall provide space not less than 2½ times the body volume of living creatures contained therein.**
- (12) Sufficient clean water and fresh food shall be offered to each animal daily as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.5-3.7; 2006). In the case of young animals, they shall be fed more than once daily. Reptiles, fish or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.**
- (13) The licensee or his representative shall be present for general care and maintenance of the animals at least once daily.**
- (14) Aquariums containing fish shall be kept in a clean healthful condition. Live algae shall not be considered an unhealthy condition. Any dead fish shall be removed from aquariums.**
- (15) Adult cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily or more often if necessary.**

Section 2. This Ordinance shall be in full force and effect upon its passage, approval, and publication as provided by law.

Passed this 24 day of September, 2012.

AYES: A11

NAYS: _____

ABSENT: _____

Approved this 24th day of September, 2012.


Village President

Attest:

Village Clerk



Published in pamphlet form:

September 28th, 2012

Heniff, William

From: Ida McCarthy <idamccarthy@yahoo.com>
Sent: Tuesday, September 03, 2013 3:42 PM
To: Giagnorio, Keith; Heniff, William
Subject: Pet Store Ordinance

I hope everyone enjoyed their Labor Day Holiday! Thank you for taking the time to meet with us last week. We would like to continue working with you to accomplish our mission in a manner that is acceptable to all parties.

Perhaps you could consider language such that:

"Pet stores opening in Lombard can only adopt out animals from 501C non-profit rescue organizations?"

That way you are not deterring a pet store from opening, just not a pet store that sells puppy mill puppies.

You are saying you can only "adopt" dogs and work with licensed rescues. A reputable breeder would never put their puppies in a store to be sold to anyone with a credit card. And adoption helps address the number of unwanted dogs who can't find homes and are euthanized - reportedly over 4 million dogs in the United States every year.

If there was a pet store in Lombard that sold pet supplies and dogs, we would ask them to go humane and offer rescue dogs only. We know Happiness is pets would never do this, since their main "product" is dogs. Many years ago Petsmart, Petco, and Pet Supplies Plus sold puppy mill dogs. They went humane and only offer dogs for adoption events. Dog Patch in Naperville sold puppy mill dogs for decades yet they went humane (adopting out rescue dogs only) 2 years ago. It's been a huge success for them. And Jim's Pet World in Villa Park is now closing. They also sold puppy mill puppies for years. People are waking up and doing their research.

Hence...the new ordinance. Like we said, we understand HIP cannot be the issue. We have been hearing rumors of other puppy mill stores thinking of opening in Yorktown. And as stated in our meeting, pet stores follow other pet stores. There are only 6 pet stores in Dupage County that sell puppy mill dogs. Petland and Happiness is pets in Naperville, Furry Babies in Bloomingdale, Happiness is pets in Lombard and Downers Grove, and Puppy parlor in Lisle. All other pet stores offer adoption events only.

In our meeting Bill, you stated that this is an issue for the Illinois Department Of Agriculture. We have had years of experience with the Illinois Department Of Agriculture, and in my opinion, they should be investigated. They have approximately 7 inspectors for the entire state. They have let animals die on farms, in shelters, in pet stores, etc. and have walked away from dead animals not reporting any of them. The inspectors are responsible for every single living animal in Illinois and could care less about pet stores. They have left cows falling over dying and never said anything. There are pictures of farm animals that we could provide, but I think you get the point.

I am including a video of a pet store in Lisle, Puppy Parlor. It's very disturbing and the Illinois Department Of Agriculture thinks this is perfectly fine. That is why we cannot turn a blind eye and leave it in their hands. This could happen in Lombard at any time, there is nothing preventing this type of store from opening. After it opens, you will be able to do nothing to stop it.

The village of Lisle has repeatedly asked the Illinois Department Of Agriculture to address this issue. They say it passes the requirements and meets their standards.

<http://youtu.be/Xyw8qh5Rayg>

It's up to us to stop this. Our elected officials should know more than the average consumer and be educated in the stores that open in their town. They should protect the consumer against fraud and abuse, neglect and cruelty. We are hoping to work with the Village Of Lombard to obtain what we all deserve, including the dogs that can't speak for themselves.

Thank you and I look forward to hearing from you.

Ida

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