

ORDINANCE NO. 95-18-115

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, FLORIDA AMENDING CHAPTER 4 OF THE ATLANTIC BEACH CODE OF ORDINANCES; ADDING SECTION 4-16, REQUIREMENTS FOR SALES OF DOGS AND CATS; PROVIDING FOR DEFINITIONS, PERMITTED SOURCES, CERTIFICATES OF SOURCE, PENALTIES AND ENFORCEMENT BY SPECIAL MAGISTRATE; AMENDING SECTION 2-146.1 OF THE ATLANTIC BEACH CODE OF ORDINANCES, JURISDICTION OR SPECIAL MAGISTRATE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the humane treatment of animals is an important public purpose; and

WHEREAS, puppy and kitten mills are inhumane and unsanitary commercial breeding facilities for dogs and cats in which the health of the dogs and cats is disregarded to maintain a low overhead and maximize profits; for example, by keeping parent dogs and cats in cages for their entire lives without adequate food, water, veterinary care, or socializations; breeding females multiple times per year with little to no recovery time between litters; and breeding dogs and cats regardless of whether they carry congenital or hereditary diseases; and

WHEREAS, according to United States Department of Agriculture reports, documented problems found at puppy and kitten mills include: 1) sanitation problems leading to infectious diseases; 2) large numbers of animals overcrowded in cages; 3) lack of proper veterinary care for severe illnesses and injuries; 4) lack of protection from harsh weather conditions; and 5) lack of adequate food and water; and

WHEREAS, the Humane Society of the United States estimates that each year two to four million dogs and cats are born in the United States in puppy and kitten mills; and

WHEREAS, the most effective way to stop puppy and kitten mills is to discourage the purchase and sale of puppies and kittens produced at these inhumane facilities; and

WHEREAS, according to the Humane Society of the United States, although American consumers purchase dogs and cats believing the pets to be healthy and genetically sound, in reality, the animals that come from mills often face an array of health problems; including not only communicable diseases or genetic disorders that present immediately after sale, but also diseases or disorders that do not surface until several years later, all of which lead to costly veterinary bills and distress to consumers; and

WHEREAS, numerous alternatives exist for people to find pets, including adoption of animals from public and private animal rescue organizations or purchase from reputable and conscientious breeders; and

WHEREAS, across the country, thousands of independent pet stores and large chain stores operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats, often collaborating with local animal shelters and rescue organizations to offer space and support for showcasing adoptable, homeless pets on their premises; and

WHEREAS, the adoption of regulations governing the sale of dogs and cats in the City will promote community awareness of animal welfare and foster a more humane environment and encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the costs to the public of sheltering animals.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:

SECTION 1. Findings. The foregoing recitals are true and correct.

SECTION 2. New Section 4-16. The Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended by adding a new section to be numbered Sec. 4-16, which section shall read as follows:

Sec. 4-16. Requirements for Sales of Dogs and Cats. Requirements for sales of dogs and cats; definitions; permitted sources; certificate of source; penalties.

(a) Prohibition.

(1) Retail Sales Restricted. No pet store nor pet store operator shall display, sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of dogs and cats in the City except as provided in this Section on or after the effective date of this Section.

(2) Pet Mills Prohibited. No pet mills shall be permitted to operate in the City of Atlantic Beach.

(b) Exemptions. This Section shall not apply to:

(1) An animal shelter;

(2) Animal rescue organization;

(3) An animal shelter or animal rescue organization which operates out of or in connection with a pet store;

(4) An animal hospital or veterinarian's office;

- (5) A pet store engaged in the display, sale, deliver, offer of sale, barter, auction, gifting or transfer of pets other than cats or dogs;
- (6) A pet store that provides space and appropriate care for cats and/or dogs that are owned by an animal shelter or an animal rescue organization and maintained at a pet store for the purpose of adopting those dogs and cats to the public;
- (7) Hobby breeders.
- (c) Certificate of Source. A pet store that houses and adopts dogs or cats to the public from an animal shelter or animal rescue organization shall post conspicuously on the cage of each dog or cat:
 - (1) The name and address of the source from which the dog or cat was obtained and date thereof;
 - (2) A copy of the certificate of source shall also be provided to the purchaser or transferee of any pet;
 - (3) A description of the dog or cat, including species breed, sex, color and distinctive markings, physical condition and health, and age (if known); and
 - (4) For each dog or cat receiving medical care while in the custody or control of the pet store, the type of service rendered, date and veterinarian's name.
- (d) Definitions. For purposes of this Section, the following words, terms, and phrases shall have the following meanings:
 - (1) Animal Rescue Organization means humane society or other duly incorporated nonprofit organization lawfully authorized to conduct business in the State of Florida and operated as a bona fide charitable organization under Section 501(c)(3) of the Internal Revenue Code, which organization is devoted to the rescue, care and/or adoption of stray, abandoned, injured or surrendered animals and which does not breed animals and which obtains its animals through donation only.
 - (2) Animal Shelter means a municipal or related public animal shelter or duly incorporated nonprofit organization lawfully authorized to conduct business in the State of Florida that is devoted to the rescue,

care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

- (3) Breeder means any person or entity that has more than a total of three (3) but less than nine (9) intact dogs and cats over the age of six (6) months on the premises at any one time and causes or allows the breeding or studing of such dog or cat. A breeder must be lawfully authorized to conduct business in the State of Florida and shall be subject to inspection on an annual basis by the Atlantic Beach Animal Control.
- (4) Cat means an animal of the Felidae family of the order Carnivora.
- (5) Certificate of Source means a copy of a notarized affidavit of verification from the source from which the cat or dog was obtained.
- (6) Dog means an animal of the Canidae family of the order of Carnivora.
- (7) Hobby Breeder means any person or entity that has not more than a total of three (3) intact dogs and cats over the age of six (6) months on the premises at any one time and causes or allows the breeding or studing of such dog or cat.
- (8) Intact dog or cat means a dog or cat that has not been spayed or neutered.
- (9) Pet Mill means a facility where cats and/or dogs are bred for the purpose of selling them and where any one of the following conditions is found to exist:
 - a. More than twenty (20) dogs under the age of twelve (12) weeks or more than twenty (20) cats under the age of sixteen (16) weeks are kept at the facility at a single time;
 - b. No genetic or heredity health testing appropriate for the breed is conducted;
 - c. Two or more long term (over one [1] year) guarantees are not honored;
 - d. A single female is bred every cycle;

- e. A single female is bred more than five (5) times in her lifetime;
- f. There are no records of the dog or cat's parents; or
- g. More than a total of eight (8) intact dogs and cats are kept at the facility over the age of six (6) months.

(10) Pet Store means a pet shop, pet groomer, pet beauty parlor or other retail establishment open to the public and engaging in the business of selling pet supplies and/or services and/or offering for sale and/or selling animals at retail.

(11) Pet Store Operator means a person who owns or operates a pet store or both.

(12) Retail Sale includes display, offer for sale, offer for adoption, barter, auction, give away or other transfer of any cat or dog.

(e) Penalties. Any person who violates this section shall be subject to a fine of \$250.00 per day per animal for the first violation within a twelve (12) month period, and a fine of \$500.00 per day per animal for any subsequent violation within a twelve (12) month period. The Atlantic Beach Police Department / Atlantic Beach Animal Control shall enforce the provisions set forth within this Section. Each day any violation of any provision of this Section shall continue constitutes a separate offense.

(f) Special magistrate. A notice of violation shall be taken before the City's special magistrate for consideration of the alleged violations of this section and applicable fines. The special magistrate shall exercise jurisdiction over such matters in accordance with Section 2-146.1 of the Code of Ordinances of the City of Atlantic Beach.

SECTION 3. Section 2-146.1, Jurisdiction of Special Magistrate of the Code of Ordinances of the City of Atlantic Beach is hereby amended to read as follows:

Sec. 2-146.1 – Jurisdiction of special magistrate.

(a) A special magistrate or special magistrates shall be appointed and removed by the city manager subject to the approval of the commission and shall have the jurisdiction and authority to hear and decided alleged violations of the section 4-10, dangerous dogs, section 4-11, classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts, and alleged violations of Section 4-16, Requirements for Sales of Dogs and Cats. Appointment of the special magistrate shall be made on the basis of experience and interest in the subject matter. A special magistrate must be a member in good standing of the Florida Bar.

(b) The special magistrate shall receive such compensation as determined by the commission.

(c) The special magistrate shall have the power to:

- (1) Adopt rules for the conduct of the hearings.
- (2) Subpoena alleged violators and witnesses to hearings.
- (3) Subpoena evidence.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

(d) The special magistrate may impose fines and penalties to cover all costs incurred by the city in enforcing its codes. Criteria that the special magistrate may consider include, but is not limited to, the following:

~~(1)~~ As to Sections 4-10 and 4-11 of the Code of Ordinances:

- ~~(1)~~a. The gravity of the incident giving rise to the dangerous dog declaration.
- ~~(2)~~b. Any previous animal control violations.
- ~~(3)~~c. Any actions taken by the dog owner to prevent or correct aggressive behavior.
- ~~(4)~~d. The complexity and resources required to complete the investigation.
- ~~(5)~~e. The cost and outcome of the hearing.

~~(2)~~ As to Section 4-16 of the Code of Ordinances:

- a. The gravity of the incident giving rise to the allege violation(s).
- b. Any previous sales of dogs or cats in violation of Section 4-16.
- c. Any actions taken by the violator to prevent or correct the alleged violation(s).
- d. The complexity and resources required to complete the investigation.
- e. The cost and outcome of the hearing.

SECTION 4. Conflict

All ordinances previously adopted by the City and in conflict with this ordinance are repealed to the extent inconsistent herewith.

SECTION 5. Severability

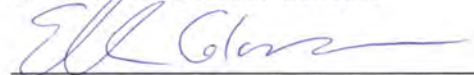
If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall take effect immediately upon its final passage and adoption.

PASSED by the City Commission on first reading this 26th day of February, 2018.

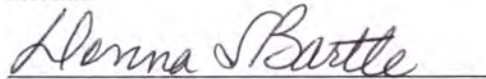
PASSED by the City Commission on second and final reading this 26th day of March, 2018.

CITY OF ATLANTIC BEACH




Ellen Glasser, Mayor

Attest:



Donna L. Bartle, City Clerk

Approved as to form and correctness:



Brenna M. Durden, City Attorney