

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
BURBANK AMENDING TITLE 5 OF THE BURBANK
MUNICIPAL CODE TO PROHIBIT THE SALE OF ALL
DOGS AND CATS BY A RETAIL PET STORE.

City Attorney's Synopsis

This Ordinance amends Title 5 of the Burbank Municipal Code to prohibit the sale of commercially bred dogs and cats by retail pet shops .

THE COUNCIL OF THE CITY OF BURBANK DOES FIND AS FOLLOWS:

A. Existing state and federal laws regulate dog and cat breeders, as well as pet stores that sell dogs and cats. These include the Lockyer-Polanco-Farr Pet Protection Act (California Health & Safety Code section 122125 et seq.); the Polanco-Lockyer Pet Breeder Warranty Act (California Health & Safety Code section 122045 et seq.); the Pet Store Animal Care Act (California Health & Safety Code section 122350 et seq.); and the Animal Welfare Act ("AWA") (7 U.S.C. § 2131 et seq.).

B. The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers (i.e. retail sellers of more than fifty (50) dogs or cats in the previous year; not including animal shelters and humane societies) to have a permit, maintain certain health and safety standards for their animals, sell only healthy animals, and provide written spay-neuter, health, animal history and other information and disclosures to pet buyers. If after fifteen (15) days from purchase a dog or cat becomes ill due to an illness that existed at the time of sale, or if within one (1) year after purchase a dog or cat has a congenital or hereditary condition that adversely affects the health of the dog or cat, an owner is offered a refund, another puppy or kitten, or reimbursement of veterinary bills up to one hundred and fifty percent (150%) of the purchase price of the puppy or kitten.

C. The Pet Store Animal Care Act requires every pet store that sells live companion animals and fish to formulate a documented program consisting of routine care, preventative care, emergency care, disease control and prevention, veterinary treatment, and euthanasia.

D. The Polanco-Lockyer Pet Breeder Warranty Act offers protection similar to that of the Lockyer-Polanco-Farr Pet Protection Act, except that it applies only to dog breeders who sold or gave away either three litters or 20 dogs in the previous year.

E. The Animal Welfare Act requires, among other things, the licensing of certain breeders of dogs and cats. These breeders are required to maintain minimum health, safety and welfare standards for animals in their care. The AWA is enforced by

the United States Department of Agriculture (USDA). However, the AWA's licensing and inspection requirements do not apply to facilities that sell directly to the public, including the thousands that now do so over the internet.

F. According to The Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" or "kitten factories", that mass-produce animals for sale to the public; and many of these animals are sold at retail in pet stores. Because of the lack of proper animal husbandry practices at these facilities, animals born and raised there are more likely to have genetic disorders and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle.

G. According to USDA inspection reports, some additional documented problems found at puppy mills include: (a) sanitation problems leading to infectious disease; (b) large numbers of animals overcrowded in cages; (c) lack of proper veterinary care for severe illnesses and injuries; (d) lack of protection from harsh weather conditions; and (e) lack of adequate food and water.

H. According to The Humane Society of the United States, American consumers purchase dogs and cats from pet stores that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders that present themselves immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to consumers.

I. The homeless pet problem notwithstanding, there are many reputable dog and cat breeders who do not sell to pet stores and who work carefully to screen families and ensure good, lifelong matches.

J. The cities of South Lake Tahoe, West Hollywood, Irvine, Dana Point, Laguna Beach, Huntington Beach, Aliso Viejo and Hermosa Beach have all adopted ordinances prohibiting the retail sale of dogs and cats. The cities of Glendale and Los Angeles have also recently made this change.

K. Across the country, many independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises.

L. There are currently two existing pet shops which have a City permit to display, sell, deliver, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer commercially acquired cats or dogs in the City of Burbank which was issued on or before October 17, 2012.

M. City Council wishes to be supportive of existing local businesses while also addressing the pet population of the City of Burbank.

N. The City Council recognizes that not all dogs and cats retailed in pet shops are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a “puppy mill” or “kitten factory”. However, it is the City Council's belief that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet shops.

O. The City Council believes that the elimination of the retail sale of dogs and cats from pet shops in the City will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals.

P. The City Council is informed and believes that animal brokers and distributors buy their animals in bulk from breeders in order to meet the demand of their retail customers. Whether or not these breeders can be defined as “puppy mills” per se, Council believes that these high volume sales help facilitate the existence of puppy mills and the mass breeding of the animals.

Q. In addition, a pet shop purchasing animals from a broker or distributor is one step further removed from the actual breeding of the animals it purchases, creating the potential to obscure the conditions in which the breeding took place and where the animals themselves were housed prior to coming to the pet shop. Pet shops are unable to confirm for themselves that the breeders they are using are complying with requisite federal and state animal welfare laws when these animals are sold through brokers who have purchased them from breeders anywhere in the country, and sometimes even internationally.

R. In light of the City's goal to be a community that cares about animal welfare, the City Council finds that the adoption of an ordinance prohibiting the sale of dogs and cats by a retail pet shop is necessary to promote community awareness of animal welfare and foster a more humane environment within the City of Burbank community.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. Section 5-1-101 of the Burbank Municipal Code entitled DEFINITIONS is amended to add the following definitions in their proper alphabetical order:

SECTION 5-1-101: DEFINITIONS:

ANIMAL SHELTER: Shall mean a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

CERTIFICATE OF SOURCE: Shall mean a document declaring the source of the dog or cat sold or transferred by the pet shop. The certificate shall include the name and address of the source of the dog or cat.

COMMERCIALLY BRED DOG OR CAT: Shall mean a dog or cat that was intentionally bred for commercial purposes and profit and offered for sale to distributors, brokers or retail sellers of such animals.

EXISTING PET SHOP : Shall mean any pet shop or pet shop operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City of Burbank and held a license to operate a pet shop as of October 17, 2012.

PET SHOP OPERATOR: Shall mean a person who owns or operates a pet shop, or both.

RETAIL SALE: Shall include display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any commercially bred cat or dog.

2. Section 5-1-101 of the Burbank Municipal Code entitled DEFINITIONS is amended to amend the following definitions:

SECTION 5-1-101: DEFINITIONS:

CAT: Shall mean an animal of the Felidae family of the order Carnivora.

DOG: Shall mean an animal of the Canidae family of the order Carnivora.

KENNEL: Shall mean any lot, building, enclosure or premises wherein four (4) or more dogs, cats, or combination thereof, four (4) months of age or over are kept, except for pet shops selling animals from a registered rescue organization, adoption agency or public animal shelter.

3. Section 5-1-1201 of the Burbank Municipal Code entitled LICENSE FEE shall be amended to read as follows:

SECTION 5-1-1201: LICENSE FEE:

Every person engaging in the business of operating a kennel shall pay a license fee as stated in the Burbank Fee Resolution.

4. Section 5-1-1203 of the Burbank Municipal Code entitled APPLICATION PERMIT; DOGS REGISTERED OR EXEMPTED NOT COUNTED IN COMPUTING FEE shall be amended to read as follows:

SECTION 5-1-1203: APPLICATION PERMIT; DOGS REGISTERED OR EXEMPTED NOT COUNTED IN COMPUTING FEE:

A. Applicants for such permit shall pay a permit fee as stated in the Burbank Fee Resolution.

B. Dogs which are duly registered under Article 5 of this chapter, or excepted therefrom, shall not be counted in computing the number of dogs in a kennel provided an affidavit is furnished with the application for a permit stating the number of registered or exempted dogs in the kennel and registration or description of each.

5. Section 5-1-1204 of the Burbank Municipal Code entitled APPROVAL OF APPLICATION shall be amended to read as follows:

SECTION 5-1-1204: APPROVAL OF APPLICATION:

Application for all original licenses and permits hereunder or renewal thereof shall be referred to the Animal Shelter Superintendent, the Community Development Director and the Los Angeles County Department of Public Health for approval and such investigation as they deem proper. The Community Development Department shall issue a permit to the applicant after such investigation if it is found that:

A. The keeping of animals, or the conduct or operation of the business for which the permit is requested, and at the place set forth in the application, will not violate any regulation or ordinance of this City, or any law of the State of California; and

B. The premises and establishment where animals are to be kept is maintained in a clean, sanitary and safe condition, and that animals will not be subject to suffering, cruelty or abuse; and

C. All interior and exterior kennels are maintained in a good state of repair; and

D. Crates and boxes, junked automobile bodies, scrap materials salvaged from ply boards, odd pieces of materials such as linoleum, tin, canvas and similar materials are not being used for kennel construction; and

E. The applicant has not had a permit issued under this article revoked within one year prior to the application; and

F. The kennel is at least one hundred feet (100') from the nearest boundary of any church, school, rest home, hospital, medical center or food establishment.

6. Section 5-1-1205 of the Burbank Municipal Code entitled DENIAL OF PERMIT; REVOCATION OR SUSPENSION PROCEDURE shall be amended to read as follows:

SECTION 5-1-1205: DENIAL OF PERMIT; REVOCATION OR SUSPENSION
PROCEDURE:

Any permit may be denied or any permit issued hereunder may be revoked or suspended if after due investigation it is found that:

A. The permittee, or his agent or employee involved in handling or caring for the animals has been convicted of any offense involving the violation of Section 597 of the State Penal Code or of any provision of this article and has not had the accusation dismissed pursuant to Section 1203.4 of the State Penal Code; or

B. The permittee, his agent, or employee has, at the place for which the permit was issued, failed to provide any animal in his possession, care or control, with proper and sufficient food, drink, shelter, or protection, or subjected any such animal to needless suffering, unnecessary cruelty, or abuse; or

C. The permittee, his agent, or employee, has failed to maintain the premises in a clean and sanitary condition; or

D. The permittee, his agent, or employee, has violated any rule or regulation of the Burbank Animal Shelter, the Community Development Department or the Los Angeles County Department of Public Health ; or

E. The licensee, his agent or employee has violated any provision of this Article, the Polanco-Lockyer Pet Breeder Warranty Act, the Animal Welfare Act or any state or federal law pertaining to animal cruelty. The licensee shall report to the Community Development Department any no contest pleas or convictions pertaining to animal cruelty involving any of his/her employees that occur during the time they are employed by licensee.

7. Section 5-1-1207 of the Burbank Municipal Code entitled ADDITIONAL REQUIREMENTS FOR DOG KENNELS shall be amended to read as follows:

SECTION 5-1-1207: ADDITIONAL REQUIREMENTS FOR DOG KENNELS:

Housing facilities and runs for dogs in kennels shall comply with the following additional requirements:

A. Facilities shall be washed down daily.

B. Interior and exterior kennel floors accessible to dogs shall be adequately sloped so as to drain into a cement trough, with trapped and vented drains that are connected to the public sewer or a private sewage disposal system, as approved by the Community Development Department, for the disposal of animal droppings, so that under no condition shall waste material drain onto public rights of way, adjoining properties or other portions of the kennel premises.

C. There shall be sufficient runs to accommodate all dogs at the same time.

D. In addition to any other requirements of this code, all new construction must have the prior approval of the Community Development Department, Animal Shelter Superintendent and the Los Angeles County Department of Public Health.

8. Section 5-1-1216 of the Burbank Municipal Code entitled GENERAL REQUIREMENTS shall be amended to read as follows:

SECTION 5-1-1216: GENERAL REQUIREMENTS:

Primary enclosures in kennels shall be:

A. Structurally sound and maintained in good repair to protect the animals from injury, to contain them, and to keep predators out;

B. Constructed and maintained so as to enable the animals to remain dry and clean;

C. Constructed and maintained so that the animals have convenient access to clean food and water; and

D. Constructed so that the floors protect the animals' feet and legs from injury and provide dogs with a rest board, floormat, or similar device that is at least equal to 50% in size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219 that can be maintained in a sanitary condition.

9. Section 5-1-1219 of the Burbank Municipal Code entitled SPACE REQUIREMENTS FOR DOGS shall be amended to read as follows:

SECTION 5-1-1219: SPACE REQUIREMENTS FOR DOGS:

Each dog housed in a primary enclosure in a kennel shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus twelve inches (12"), expressed in square feet. The calculation is: (length of dog in inches + 12) x (length of dog in inches + 12) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet.

10. Section 5-1-1220 of the Burbank Municipal Code entitled CRATED DOGS TO BE REMOVED FOR EXERCISE shall be amended as follows:

SECTION 5-1-1220: CAGED DOGS TO BE REMOVED FOR EXERCISE:

Caged dogs in kennels shall be removed from their cages at least twice a day for a minimum of thirty (30) minutes each and placed in a kennel run which meets the

minimum requirements for each animal occupying the run, except with respect to dogs being confined for veterinary care. During inclement weather, dogs need not be released into open runs.

11. Section 5-1-1232 of the Burbank Municipal Code entitled DAILY OBSERVATION shall be amended to read as follows:

SECTION 5-1-1232: DAILY OBSERVATION:

Each animal in a kennel shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick, diseased, or injured animals shall be provided with veterinary care without delay or humanely disposed of unless the animal is being used for research and such action is inconsistent with the research purposes for which the animal was obtained and is being held.

12. Title 5, Chapter 1, Article 12 of the Burbank Municipal Code is amended to add DIVISION 8 entitled BREEDING GUIDELINES.

13. Section 5-1-1242 of the Burbank Municipal Code entitled GENERAL is added to Division 8 to read as follows:

SECTION 5-1-1242: GENERAL:

In addition to the other requirements listed in this Article, kennels acting as breeding facilities, and breeders who raise and sell animals either at wholesale or retail shall comply with the following requirements in this Division.

14. Section 5-1-1243 of the Burbank Municipal Code entitled HEALTH OF BREEDING DOGS AND CATS is added to Division 8 to read as follows:

SECTION 5-1-1243: HEALTH OF BREEDING DOGS AND CATS:

A. Litters should only be produced with a reasonable expectation of finding homes where they are both wanted and appreciated, and are offered a good quality of life.

B. A dog or cat must be physically fit, healthy and free of disease at the time of being mated. Animals shall have routine and preventive veterinary care including examination once yearly by a licensed veterinarian.

C. A female unaltered dog shall not be bred during her first estrus season and shall not be bred on consecutive heats. Breeders should consider the welfare of their breeding sires and dams when deciding on the best time to cease breeding their animals.

D. Offspring shall not be removed from the mother and the premises earlier than eight (8) weeks of age except for medical reasons ordered by a licensed veterinarian. The order shall be in writing, state the medical reason for the early separation and be provided upon request.

15. Section 5-1-1244 of the Burbank Municipal Code entitled EXERCISE AND SOCIALIZATION is added to Division 8 to read as follows:

SECTION 5-1-1244: EXERCISE AND SOCIALIZATION:

A. Persons shall ensure that each animal that is weaned has access to locomotory activity; this activity should allow for an animal to move sufficiently to develop and/or maintain normal muscle tone and mass as pertinent for the age, breed, sex and reproductive status of the animal. Provisions for locomotory activity should also allow the animal an opportunity to achieve a running stride.

B. The provided area for locomotion should be separate from the primary enclosure if the primary enclosure does not allow for fulfillment of adequate locomotion enrichment and social activities. The run shall meet the requirements of this Article.

C. Animals shall be provided with daily socialization. For the purpose of this Article, "socialization" means physical contact with other compatible animals of the same species and with human beings.

16. Section 5-1-1245 of the Burbank Municipal Code entitled HOUSING is added to Division 8 to read as follows:

SECTION 5-1-1245: HOUSING:

A. The facility may not house more dogs than the space will allow. At the time of permit application, staff will verify amount of room available for primary enclosures, facilities for breeding and/or whelping and exercise facilities to determine how many animals can be properly accommodated.

B. The primary enclosure shall provide 100 percent of the required space for each animal if maintained separately.

C. Each pregnant animal shall be housed separately at least three (3) days before giving birth and be monitored at reasonable intervals. An animal that has just given birth shall be provided with a whelping box or contained nesting area and housed with her litter in their own enclosure until the newborns are weaned. The box or nesting area shall be designed in a manner that maintains an appropriate temperature for the litter.

D. Animals may not be primarily housed on wire flooring and shall be provided with a rest board, floormat, or similar device that is at least equal to 50% in

size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219 that can be maintained in a sanitary condition.

E. The primary enclosure shall provide an area of retreat for the animal in the form of bedding, a built-in platform or visual barrier that allows rest and retreat.

F. Stacked cages shall have permanent solid flooring strong enough that the floor does not sag or bend between the frame or structural supports. The floor of any cage or primary enclosure may not be placed such that it inhibits the ability of caretakers or inspectors to see and check on the well-being of the animal or clean the enclosure, or otherwise hinders proper care of the animal.

17. Section 5-1-1246 of the Burbank Municipal Code entitled BREEDING RECORDS is added to Division 8 to read as follows:

SECTION 5-1-1246: BREEDING RECORDS:

A. Each licensee shall identify each dog or cat in its control or custody as prescribed by state and federal law.

B. Licensees shall maintain accurate records for at least one year as stated in Section 5-1-1241 and shall also record information on breeding dates, whelping dates, number of puppies per litter, sire for each litter and microchip or other identification number carried by or appearing on the animals. Records shall be provided to the City upon request.

18. Section 5-1-1247 of the Burbank Municipal Code entitled STAFFING/EMERGENCY PROCEDURES is added to Division 8 to read as follows:

SECTION 5-1-1247: STAFFING/EMERGENCY PROCEDURES:

A. An adequate number of trained staff must be provided to ensure appropriate upkeep of the facility and that all minimum care requirements for the dogs can be met. An animal facility shall have adequate staffing on the premises of the animal facility to attend to the dogs at least eight (8) hours in every twenty-four (24) hour period, so long as the dogs are not left unattended for longer than twelve (12) continuous hours. Whenever the dogs are left unattended, the name, telephone number and address of the responsible person shall be posted in a conspicuous place at the front of the property.

B. Each facility must have a documented procedure for the swift removal of animals from the facility, in the case of emergency. This document must be kept at the facility and all staff must be able to produce the document and must be familiar with its content. Commercial dog or cat kennels providing boarding facilities shall provide 24-hour supervision on the premises. In lieu of 24-hour supervision, a central station

signaling system shall be installed whereby a responsible party can be contacted immediately upon detection of fire.

19. Section 5-1-1401 of the Burbank Municipal Code entitled LICENSE FEE is amended to read as follows:

SECTION 5-1-1401: LICENSE FEE:

Every person engaging in the business of operating a pet shop shall pay a license fee as stated in the Burbank Fee Resolution.

20. Section 5-1-1403, Subsections A, B, and C, of the Burbank Municipal Code entitled PERMIT FEE BASED ON NUMBER OF DOGS shall be amended to read as follows:

SECTION 5-1-1403: PERMIT FEE BASED ON NUMBER OF DOGS:

Applications for such permit shall be accompanied by a permit fee as stated in the Burbank Fee Resolution.

21. Section 5-1-1411(D) of the Burbank Municipal Code entitled GENERAL REQUIREMENTS shall be amended to conform with Health and Safety Code Section 122155 (a)(4):

SECTION 5-1-1411: GENERAL REQUIREMENTS:

D. Constructed to provide dogs housed on wired flooring with a rest board, floormat or similar device that is at least equal to 50% in size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219 that can be maintained in a sanitary condition.

22. Title 5, Chapter 1, Article 14 of the Burbank Municipal Code is amended to add Division 8 entitled SALE OF DOGS AND CATS.

23. Section 5-1-1439, PROHIBITION ON SALE OF DOGS OR CATS, of the Burbank Municipal Code is added to Division 8 to read as follows:

SECTION 5-1-1439: PROHIBITION ON SALE OF DOGS OR CATS:

A. PROHIBITION. No pet shop shall display, sell, deliver, offer for sale, barter, auction, give away, broker or otherwise transfer or dispose of dogs or cats in the City of Burbank on or after the October 17, 2012, EXCEPT for dogs or cats obtained from:

1. a publically operated animal control facility or animal shelter;

2. a private, charitable, non-profit humane society or animal rescue organization; or

3. a publically operated animal control agency, non-profit humane society or non-profit animal rescue organization that operates out of or in connection with a pet store.

B. CERTIFICATE OF SOURCE. All pet shops shall be required to maintain a manifest listing the source of all animals as described above. Said manifest will be available upon request to animal control officers, law enforcement, code compliance officials or any other City employee charged with enforcing the provisions of this section, and shall also be submitted with any business permit application or renewal required by Section 5-1-402, et.seq. Failure to provide such documentation may result in the denial, suspension or revocation of the permit.

C. EXEMPTIONS FOR EXISTING PET SHOPS. Any Existing Pet Shop may continue to display, sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of commercially bred dogs or cats for a period of six months from the effective date of this ordinance (through September 7, 2013), as long as the business remains in its current location AND under current ownership, provided all of the following conditions are met:

1. None of the animals are purchased through a distributor or broker;

2. All animals shall come from a USDA Class A licensed breeder who, at a minimum, meets all standards required under California law, including, but not limited to, the Polanco-Lockyer Pet Breeder Warranty Act; and

3. The name, address and license number of the breeder shall be posted on any enclosure in which the animal is housed with information on how the consumer can trace the origin of the animal;

D. OTHER EXEMPTIONS. This Section does not apply to:

1. A person or establishment other than a pet shop or pet shop operator that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishment, in accordance with the provisions of the Burbank Municipal Code;

2. A publicly operated animal control facility or animal shelter;

3. A private, charitable, nonprofit humane society or animal rescue organization; or

4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

E. ADOPTION OF SHELTER AND RESCUE ANIMALS. Nothing in this Article shall prevent a pet shop or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet shop for the purpose of adopting those animals to the public.

(Non-Codified)

24. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

25. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this ____ day of _____, 2013.

Dave Golonski
Mayor of the City of Burbank

Attest:

Zizette Mullins, City Clerk

Approved as to Form
Office of the City Attorney

By: _____
Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Zizette Mullins, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the ____ day of _____, 2013.

Zizette Mullins, City Clerk

ORDINANCE NO. _____

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City Attorney's Synopsis

This Ordinance amends Title 5 of the Burbank Municipal Code to prohibit the sale of commercially bred dogs and cats by retail pet shops ~~except under limited circumstances~~.

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otherwise transfer commercially acquired cats or dogs in the City of Burbank which was issued on or before October 17, 2012.

M. City Council wishes to be supportive of existing local businesses while also addressing the pet population of the City of Burbank.

N. The City Council recognizes that not all dogs and cats retailed in pet shops are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a “puppy mill” or “kitten factory”. However, it is the City Council's belief that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet shops.

O. The City Council believes that the elimination of the retail sale of dogs and cats from pet shops in the City will also encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals.

P. The City Council is informed and believes that animal brokers and distributors buy their animals in bulk from breeders in order to meet the demand of their retail customers. Whether or not these breeders can be defined as “puppy mills” per se, Council believes that these high volume sales help facilitate the existence of puppy mills and the mass breeding of the animals.

Q. In addition, a pet shop purchasing animals from a broker or distributor is one step further removed from the actual breeding of the animals it purchases, creating the potential to obscure the conditions in which the breeding took place and where the animals themselves were housed prior to coming to the pet shop. Pet shops are unable to confirm for themselves that the breeders they are using are complying with requisite federal and state animal welfare laws when these animals are sold through brokers who have purchased them from breeders anywhere in the country, and sometimes even internationally.

R. In light of the City's goal to be a community that cares about animal welfare, the City Council finds that the adoption of an ordinance prohibiting the sale of dogs and cats by a retail pet shop is necessary to promote community awareness of animal welfare and foster a more humane environment within the City of Burbank community.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. Section 5-1-101 of the Burbank Municipal Code entitled DEFINITIONS is amended to add the following definitions in their proper alphabetical order:

SECTION 5-1-101: DEFINITIONS:

ANIMAL SHELTER: Shall mean a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

CERTIFICATE OF SOURCE: Shall mean a document declaring the source of the dog or cat sold or transferred by the pet shop. The certificate shall include the name and address of the source of the dog or cat.

COMMERCIALLY BRED DOG OR CAT: Shall mean a dog or cat that was intentionally bred for commercial purposes and profit and offered for sale to distributors, brokers or retail sellers of such animals.

EXISTING PET SHOP : Shall mean any pet shop or pet shop operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City of Burbank and held a license to operate a pet shop as of October 17, 2012.

PET SHOP OPERATOR: Shall mean a person who owns or operates a pet shop, or both.

RETAIL SALE: Shall include display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any commercially bred cat or dog.

2. Section 5-1-101 of the Burbank Municipal Code entitled DEFINITIONS is amended to amend the following definitions:

SECTION 5-1-101: DEFINITIONS:

CAT: Shall mean an animal of the Felidae family of the order Carnivora.

DOG: Shall mean an animal of the Canidae family of the order Carnivora.

KENNEL: Shall mean any lot, building, enclosure or premises wherein four (4) or more dogs, cats, or combination thereof, four (4) months of age or over are kept, except for pet shops selling animals from a registered rescue organization, adoption agency or public animal shelter.

3. Section 5-1-1201 of the Burbank Municipal Code entitled LICENSE FEE shall be amended to read as follows:

SECTION 5-1-1201: LICENSE FEE:

Every person engaging in the business of operating a kennel shall pay a license fee as stated in the Burbank Fee Resolution.

4. Section 5-1-1203 of the Burbank Municipal Code entitled APPLICATION PERMIT; DOGS REGISTERED OR EXEMPTED NOT COUNTED IN COMPUTING FEE shall be amended to read as follows:

SECTION 5-1-1203: APPLICATION PERMIT; DOGS REGISTERED OR EXEMPTED NOT COUNTED IN COMPUTING FEE:

A. Applicants for such permit shall pay a permit fee as stated in the Burbank Fee Resolution.

B. Dogs which are duly registered under Article 5 of this chapter, or excepted therefrom, shall not be counted in computing the number of dogs in a kennel provided an affidavit is furnished with the application for a permit stating the number of registered or exempted dogs in the kennel and registration or description of each.

5. Section 5-1-1204 of the Burbank Municipal Code entitled APPROVAL OF APPLICATION shall be amended to read as follows:

SECTION 5-1-1204: APPROVAL OF APPLICATION:

Application for all original licenses and permits hereunder or renewal thereof shall be referred to the Animal Shelter Superintendent, the Community Development Director and the Los Angeles County Department of Public Health for approval and such investigation as they deem proper. The Community Development Department shall issue a permit to the applicant after such investigation if it is found that:

A. The keeping of animals, or the conduct or operation of the business for which the permit is requested, and at the place set forth in the application, will not violate any regulation or ordinance of this City, or any law of the State of California; and

B. The premises and establishment where animals are to be kept is maintained in a clean, sanitary and safe condition, and that animals will not be subject to suffering, cruelty or abuse; and

C. All interior and exterior kennels are maintained in a good state of repair; and

D. Crates and boxes, junked automobile bodies, scrap materials salvaged from ply boards, odd pieces of materials such as linoleum, tin, canvas and similar materials are not being used for kennel construction; and

E. The applicant has not had a permit issued under this article revoked within one year prior to the application; and

F. The kennel is at least one hundred feet (100') from the nearest boundary of any church, school, rest home, hospital, medical center or food establishment.

6. Section 5-1-1205 of the Burbank Municipal Code entitled DENIAL OF PERMIT; REVOCATION OR SUSPENSION PROCEDURE shall be amended to read as follows:

SECTION 5-1-1205: DENIAL OF PERMIT; REVOCATION OR SUSPENSION PROCEDURE:

Any permit may be denied or any permit issued hereunder may be revoked or suspended if after due investigation it is found that:

A. The permittee, or his agent or employee involved in handling or caring for the animals has been convicted of any offense involving the violation of Section 597 of the State Penal Code or of any provision of this article and has not had the accusation dismissed pursuant to Section 1203.4 of the State Penal Code; or

B. The permittee, his agent, or employee has, at the place for which the permit was issued, failed to provide any animal in his possession, care or control, with proper and sufficient food, drink, shelter, or protection, or subjected any such animal to needless suffering, unnecessary cruelty, or abuse; or

C. The permittee, his agent, or employee, has failed to maintain the premises in a clean and sanitary condition; or

D. The permittee, his agent, or employee, has violated any rule or regulation of the Burbank Animal Shelter, the Community Development Department or the Los Angeles County Department of Public Health ; or

E. The licensee, his agent or employee has violated any provision of this Article, the Polanco-Lockyer Pet Breeder Warranty Act, the Animal Welfare Act or any state or federal law pertaining to animal cruelty. The licensee shall report to the Community Development Department any no contest pleas or convictions pertaining to animal cruelty involving any of his/her employees that occur during the time they are employed by licensee.

7. Section 5-1-1207 of the Burbank Municipal Code entitled ADDITIONAL REQUIREMENTS FOR DOG KENNELS shall be amended to read as follows:

SECTION 5-1-1207: ADDITIONAL REQUIREMENTS FOR DOG KENNELS:

Housing facilities and runs for dogs in kennels shall comply with the following additional requirements:

A. Facilities shall be washed down daily.

B. Interior and exterior kennel floors accessible to dogs shall be adequately sloped so as to drain into a cement trough, with trapped and vented drains that are connected to the public sewer or a private sewage disposal system, as approved by the Community Development Department, for the disposal of animal droppings, so that under no condition shall waste material drain onto public rights of way, adjoining properties or other portions of the kennel premises.

C. There shall be sufficient runs to accommodate all dogs at the same time.

D. In addition to any other requirements of this code, all new construction must have the prior approval of the Community Development Department, Animal Shelter Superintendent and the Los Angeles County Department of Public Health.

8. Section 5-1-1216 of the Burbank Municipal Code entitled GENERAL REQUIREMENTS shall be amended to read as follows:

SECTION 5-1-1216: GENERAL REQUIREMENTS:

Primary enclosures in kennels shall be:

A. Structurally sound and maintained in good repair to protect the animals from injury, to contain them, and to keep predators out;

B. Constructed and maintained so as to enable the animals to remain dry and clean;

C. Constructed and maintained so that the animals have convenient access to clean food and water; and

D. Constructed so that the floors protect the animals' feet and legs from injury and provide dogs with a rest board, floormat, or similar device that is at least equal to 50% in size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219 that can be maintained in a sanitary condition.

9. Section 5-1-1219 of the Burbank Municipal Code entitled SPACE REQUIREMENTS FOR DOGS shall be amended to read as follows:

SECTION 5-1-1219: SPACE REQUIREMENTS FOR DOGS:

Each dog housed in a primary enclosure in a kennel shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus ~~six~~ twelve inches (~~612~~"), expressed in square feet. The calculation is: (length of dog in inches + ~~612~~) x (length of dog in inches + ~~612~~) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet.

10. Section 5-1-1220 of the Burbank Municipal Code entitled CRATED DOGS TO BE REMOVED FOR EXERCISE shall be amended as follows:

SECTION 5-1-1220: CAGED DOGS TO BE REMOVED FOR EXERCISE:

Caged dogs in kennels shall be removed from their cages at least twice a day for a minimum of thirty (30) minutes each and placed in a kennel run which meets the minimum requirements for each animal occupying the run, except with respect to dogs being confined for veterinary care. During inclement weather, dogs need not be released into open runs.

11. Section 5-1-1232 of the Burbank Municipal Code entitled DAILY OBSERVATION shall be amended to read as follows:

SECTION 5-1-1232: DAILY OBSERVATION:

Each animal in a kennel shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick, diseased, or injured animals shall be provided with veterinary care without delay or humanely disposed of unless the animal is being used for research and such action is inconsistent with the research purposes for which the animal was obtained and is being held.

12. Title 5, Chapter 1, Article 12 of the Burbank Municipal Code is amended to add DIVISION 8 entitled BREEDING GUIDELINES.

13. Section 5-1-1242 of the Burbank Municipal Code entitled GENERAL is added to Division 8 to read as follows:

SECTION 5-1-1242: GENERAL:

In addition to the other requirements listed in this Article, kennels acting as breeding facilities, and breeders who raise and sell animals either at wholesale or retail shall comply with the following requirements in this Division.

14. Section 5-1-1243 of the Burbank Municipal Code entitled HEALTH OF BREEDING DOGS AND CATS is added to Division 8 to read as follows:

SECTION 5-1-1243: HEALTH OF BREEDING DOGS AND CATS:

A. Litters should only be produced with a reasonable expectation of finding homes where they are both wanted and appreciated, and are offered a good quality of life.

B. A dog or cat must be physically fit, healthy and free of disease at the time of being mated. Animals shall have routine and preventive veterinary care including examination once yearly by a licensed veterinarian.

C. A female unaltered dog shall not be bred during her first estrus season and shall not be bred on consecutive heats. Breeders should consider the welfare of their breeding sires and dams when deciding on the best time to cease breeding their animals.

D. Offspring shall not be removed from the mother and the premises earlier than eight (8) weeks of age except for medical reasons ordered by a licensed veterinarian. The order shall be in writing, state the medical reason for the early separation and be provided upon request.

15. Section 5-1-1244 of the Burbank Municipal Code entitled EXERCISE AND SOCIALIZATION is added to Division 8 to read as follows:

SECTION 5-1-1244: EXERCISE AND SOCIALIZATION:

A. Persons shall ensure that each animal that is weaned has access to locomotory activity; this activity should allow for an animal to move sufficiently to develop and/or maintain normal muscle tone and mass as pertinent for the age, breed, sex and reproductive status of the animal. Provisions for locomotory activity should also allow the animal an opportunity to achieve a running stride.

B. The provided area for locomotion should be separate from the primary enclosure if the primary enclosure does not allow for fulfillment of adequate locomotion enrichment and social activities. The run shall meet the requirements of this Article.

C. Animals shall be provided with daily socialization. For the purpose of this Article, "socialization" means physical contact with other compatible animals of the same species and with human beings.

16. Section 5-1-1245 of the Burbank Municipal Code entitled HOUSING is added to Division 8 to read as follows:

SECTION 5-1-1245: HOUSING:

A. The facility may not house more dogs than the space will allow. At the time of permit application, staff will verify amount of room available for primary enclosures, facilities for breeding and/or whelping and exercise facilities to determine how many animals can be properly accommodated.

B. The primary enclosure shall provide 100 percent of the required space for each animal if maintained separately.

C. Each pregnant animal shall be housed separately at least three (3) days before giving birth and be monitored at reasonable intervals. An animal that has just given birth shall be provided with a whelping box or contained nesting area and housed with her litter in their own enclosure until the newborns are weaned. The box or nesting

area shall be designed in a manner that maintains an appropriate temperature for the litter.

D. Animals may not be primarily housed on wire flooring and shall be provided with a rest board, floormat, or similar device [that is at least equal to 50% in size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219](#) that can be maintained in a sanitary condition.

E. The primary enclosure shall provide an area of retreat for the animal in the form of bedding, a built-in platform or visual barrier that allows rest and retreat.

F. Stacked cages shall have permanent solid flooring strong enough that the floor does not sag or bend between the frame or structural supports. The floor of any cage or primary enclosure may not be placed such that it inhibits the ability of caretakers or inspectors to see and check on the well-being of the animal or clean the enclosure, or otherwise hinders proper care of the animal.

17. Section 5-1-1246 of the Burbank Municipal Code entitled BREEDING RECORDS is added to Division 8 to read as follows:

SECTION 5-1-1246: BREEDING RECORDS:

A. Each licensee shall identify each dog or cat in its control or custody as prescribed by state and federal law.

B. Licensees shall maintain accurate records for at least one year as stated in Section 5-1-1241 and shall also record information on breeding dates, whelping dates, number of puppies per litter, sire for each litter and microchip or other identification number carried by or appearing on the animals. Records shall be provided to the City upon request.

18. Section 5-1-1247 of the Burbank Municipal Code entitled STAFFING/EMERGENCY PROCEDURES is added to Division 8 to read as follows:

SECTION 5-1-1247: STAFFING/EMERGENCY PROCEDURES:

A. An adequate number of trained staff must be provided to ensure appropriate upkeep of the facility and that all minimum care requirements for the dogs can be met. An animal facility shall have adequate staffing on the premises of the animal facility to attend to the dogs at least eight (8) hours in every twenty-four (24) hour period, so long as the dogs are not left unattended for longer than twelve (12) continuous hours. Whenever the dogs are left unattended, the name, telephone number and address of the responsible person shall be posted in a conspicuous place at the front of the property.

B. Each facility must have a documented procedure for the swift removal of animals from the facility, in the case of emergency. This document must be kept at the facility and all staff must be able to produce the document and must be familiar with its content. Commercial dog or cat kennels providing boarding facilities shall provide 24-hour supervision on the premises. In lieu of 24-hour supervision, a central station signaling system shall be installed whereby a responsible party can be contacted immediately upon detection of fire.

19. Section 5-1-1401 of the Burbank Municipal Code entitled LICENSE FEE is amended to read as follows:

SECTION 5-1-1401: LICENSE FEE:

Every person engaging in the business of operating a pet shop shall pay a license fee as stated in the Burbank Fee Resolution.

20. Section 5-1-1403, Subsections A, B, and C, of the Burbank Municipal Code entitled PERMIT FEE BASED ON NUMBER OF DOGS shall be amended to read as follows:

SECTION 5-1-1403: PERMIT FEE BASED ON NUMBER OF DOGS:

Applications for such permit shall be accompanied by a permit fee as stated in the Burbank Fee Resolution.

21. Section 5-1-1411(D) of the Burbank Municipal Code entitled GENERAL REQUIREMENTS shall be amended to conform with Health and Safety Code Section 122155 (a)(4):

SECTION 5-1-1411: GENERAL REQUIREMENTS:

D. Constructed to provide dogs housed on wired flooring with a rest board, floormat or similar device that is at least equal to 50% in size of the minimum square footage of floor space in a primary enclosure as specified in Section 5-1-1219 that can be maintained in a sanitary condition.

22. Title 5, Chapter 1, Article 14 of the Burbank Municipal Code is amended to add Division 8 entitled SALE OF DOGS AND CATS.

23. Section 5-1-1439, PROHIBITION ON SALE OF DOGS OR CATS, of the Burbank Municipal Code is added to Division 8 to read as follows:

SECTION 5-1-1439: PROHIBITION ON SALE OF DOGS OR CATS:

A. PROHIBITION. No pet shop shall display, sell, deliver, offer for sale, barter, auction, give away, broker or otherwise transfer or dispose of dogs or cats in the

City of Burbank on or after the October 17, 2012, EXCEPT for dogs or cats obtained from:

1. a publically operated animal control facility or animal shelter;
2. a private, charitable, non-profit humane society or animal rescue organization; or
3. a publically operated animal control agency, non-profit humane society or non-profit animal rescue organization that operates out of or in connection with a pet store.

B. CERTIFICATE OF SOURCE. All pet shops shall be required to maintain a manifest listing the source of all animals as described above. Said manifest will be available upon request to animal control officers, law enforcement, code compliance officials or any other City employee charged with enforcing the provisions of this section, and shall also be submitted with any business permit application or renewal required by Section 5-1-402, et.seq. Failure to provide such documentation may result in the denial, suspension or revocation of the permit.

C. EXEMPTIONS FOR EXISTING PET SHOPS. Any Existing Pet Shop may continue to display, sell, deliver, offer for sale, barter, auction, give away or otherwise transfer or dispose of commercially bred dogs or cats for a period of six months from the effective date of this ordinance (through September 7, 2013), as long as the business remains in its current location AND under current ownership, provided all of the following conditions are met:

1. None of the animals are purchased through a distributor or broker;
2. All animals shall come from a USDA Class A licensed breeder who, at a minimum, meets all standards required under California law, including, but not limited to, the Polanco-Lockyer Pet Breeder Warranty Act; and
- ~~3. No animals shall come from any breeder who has had their license revoked or who is in violation of the USDA's Animal and Plant Health Inspection Services ("APHIS");~~
- ~~4. Pet Shop shall comply with all applicable California laws, including the Lockyer-Polanco-Farr Pet Protection Act and the Pet Store Animal Care Act;~~
- ~~5. A manifest listing the source of all animals sold shall be maintained on site and shall be available upon request by animal control officers, law enforcement, code compliance officials or any other City employee charged with enforcing the provisions of this section, and shall be provided at the time of permit renewal;~~
- ~~6.3. The name, address and license number of the breeder shall be posted on any enclosure in which the animal is housed with information on how the consumer can trace the origin of the animal;~~
- ~~7. Notice is posted conspicuously on or near the enclosure in which the animal is housed in minimum 100 point font, stating that all health and animal history records are available from the pet shop owner upon request as well as a notice stating "You are entitled to a copy of a statement of consumer rights";~~

~~8. All local, state and federal laws with regard to the housing and sale of dogs or cats shall be followed at all times;~~

~~9. Pet shop may not expand the number of dog or cat enclosures/cages or the number of dogs or cats offered for sale beyond the number in place on October 17, 2012, unless store agrees to end the sale of commercially bred dogs or cats.~~

D. OTHER EXEMPTIONS. This Section does not apply to:

1. A person or establishment other than a pet shop or pet shop operator that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishment, in accordance with the provisions of the Burbank Municipal Code;

2. A publicly operated animal control facility or animal shelter;

3. A private, charitable, nonprofit humane society or animal rescue organization; or

4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

E. ADOPTION OF SHELTER AND RESCUE ANIMALS. Nothing in this Article shall prevent a pet shop or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet shop for the purpose of adopting those animals to the public.

(Non-Codified)

24. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

25. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this ____ day of _____, 2013.

Dave Golonski
Mayor of the City of Burbank

Attest:

Zizette Mullins, City Clerk

Approved as to Form
Office of the City Attorney

By: _____
Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Zizette Mullins, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the ____ day of _____, 2013.

Zizette Mullins, City Clerk