

ORDINANCE NO. 07-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 91, "ANIMALS", BY ENACTING A NEW SECTION 91.18, "RETAIL SALE OF DOGS AND CATS" TO PROVIDE FOR REGULATIONS REGARDING DOG AND CAT SALES; AND AMENDING CHAPTER 37, "CODE ENFORCEMENT", SECTION 37.45, "SUPPLEMENTAL CODE ENFORCEMENT PROCEDURES", SUBSECTION (Q), "CIVIL PENALTIES" TO PROVIDE PENALTIES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach desires to ensure that all dogs and cats are treated humanely and desires to prohibit substandard breeding facilities known as "puppy mills" or "kitten mills," that mass-produce animals for sale to the public, many of which are sold at retail in pet stores; and

WHEREAS, because of the lack of proper animal husbandry practices at those 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; and

WHEREAS, while not all dogs and cats sold are the products of inhumane breeding conditions and not every commercial breeder selling dogs or cats to pet stores operates "puppy mills" or "kitten mills," the City Commission believes that "puppy mills" and "kitten mills" continue to exist in part because of public demand and the sale of dogs and cats that are purchased from substandard breeding facilities; and

WHEREAS, the City Commission believes that restricting the retail sale of dogs and cats in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the City; and

WHEREAS, the City Commission believes that the restriction of the retail sale of dogs and cats in the pet stores in the City will reduce impulse purchases of pets, which can led to abandonment or mistreatment of the animals once they have outgrown their initial puppy or kitten appeal and 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.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Chapter 91, "Animals", Section 91.18, "Retail Sale of Dogs and Cats", of the Code of Ordinances of the City of Delray Beach is hereby amended to read as follows:

Sec. 91.18 – RETAIL SALE OF DOGS AND CATS.

A. Definitions. For the purpose of this chapter:

(1) Animal Rescue Organization means a humane society or other duly incorporated or organized nonprofit organization 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, or surrendered animals and which does not breed animals.

(2) Animal Shelter means a county, municipal, or public animal shelter or a duly incorporated or organized nonprofit organization operated as a bona fide charitable organization under Section 501(c) 3 of the Internal Revenue Code devoted to the rescue, care, and/or adoption of stray, abandoned, or surrendered animals, and which does not breed animals.

(3) Cat means an animal of the Felidae family of the order Carnivora.

(4) Certificate of Source means a document from an Animal Shelter or Animal Rescue Organization which provides (a) brief description of the dog or cat, the name, address, telephone number and e-mail address of the source (Animal Shelter or Animal Rescue Organization) of the dog or cat; (b) shall be signed by the Pet Store certifying that it received the dog or cat from an Animal Shelter or Animal Rescue Organization; and (c) shall be signed by the purchaser or transferee of the dog or cat acknowledging receipt of the Certificate of Source.

(5) Dog means an animal of the Canidae family of the [order] Carnivora.

(6) Offer(s) for Sale means to display, sell, deliver, offer for sale or adoption, advertise for the sale of barter, auction, give away or otherwise dispose of a dog or cat.

(7) Pet Store means any retail establishment located within the City of Delray Beach and that is open to the public and sells, transfers, or offers for sale or transfer, dogs and/or cats, including puppies and kittens, regardless of the age of the dog or cat.

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

B. Sale or Transfer of Dogs and/or Cats. No Pet Store located within the City of Delray Beach shall display, sell, trade, deliver, barter, lease, rent, auction, give away, transfer, offer for sale, or otherwise dispose of dogs or cats in the City of Delray Beach on or after the effective date of this section.

C. Exemptions. This section does not apply to:

(1) An Animal Shelter.

(2) An Animal Rescue Organization.

(3) An Animal Shelter or Animal Rescue Organization that operates out of or in connection with a pet store.

D. Certificate of Source.

(1) A Pet Store operating under the exemption described in Section (C)(3) shall post and maintain in a conspicuous place, on or within three (3) feet of each animal's kennel, cage or enclosure, a Certificate of Source of each dog or cat offered for sale or transfer, and shall provide a copy of such certificate to the purchaser or transferee of any dog or cat sold or transferred.

(2) Any law enforcement officer or employee of an Animal Shelter or Animal Rescue Organization may, at any time, request to review copies of such certificates and, upon such request; the Pet Store must present such certificates at that time and without delay.

(3) Falsification of a Certificate of Source by a Pet Store, Pet Store Operator, or any other person shall be deemed a violation of this section.

E. Adoption of Shelter and Rescue Animals. Nothing in this section shall prevent a Pet Store, or its owner, operator, or employees, from providing space and appropriate care for animals owned by an Animal Shelter or Animal Rescue Organization and maintained at the Pet Store for the purpose of adopting those animals to the public.

F. Amortization. Pet stores that possess an active City local business tax receipt on the adoption date of this ordinance shall be permitted to continue its sale of dogs and cats even if it is not in compliance with this section for a period of time not to exceed six (6) months from the date of adoption of the ordinance creating this section.

G. Violations—Enforcement.

(1) Any person who violates this section shall be subject to the penalties set forth in Chapter 37 of the Code of Ordinances.

(2) Additionally, the City may initiate a civil action in a court of competent jurisdiction to enjoin any violation of this section.

Section 2. That Chapter 37, “Code Enforcement”, Section 37.45, “Supplemental Code Enforcement Procedures”, Subsection (Q), “Civil Penalties”, shall hereby be amended as follows:

Q) Civil Penalties.

<i>Code</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>	
		<i>Noncontested</i>	<i>Contested</i>
<i>Code Section</i>			
CITY CODE OF ORDINANCES			
ANIMALS			
<u>91.18</u>	<u>Unlawful retail sales of dogs and cats /Failure to post or falsified Certificate of Source</u>	<u>400.00</u>	<u>500.00</u>

Section 3. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2016.

MAYOR

ATTEST:

City Clerk

First Reading _____

Second Reading _____