

ORDINANCE NO. 2014-3

~~AN ORDINANCE AMENDING CHAPTER VI OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA ENTITLED "ANIMALS AND FOWL" BY CREATING SECTION 6-9 ENTITLED "RESTRICTIONS ON RETAIL PET SALES AND PET MILLS"; AMENDING SECTION 6.5-1 "DEFINITIONS"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A FINE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.~~

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

WHEREAS, "pet mills" are inhumane and unsanitary commercial breeding facilities for dogs in which the health of the dogs is disregarded to maintain a low overhead and maximize profits;

WHEREAS, because of the lack of proper animal husbandry practices at these pet mills, animals born and raised there are more likely to have genetic disorders and lack adequate socialization, and 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, according to The Humane Society of the United States ("HSUS"), 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 immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to consumers; and

WHEREAS, HSUS estimates that, each year, two to four million puppies are born in the United States in puppy mills; and

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WHEREAS, according to HSUS, 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, many of which are sold at retail in pet stores, or are euthanized by Miami-Dade County’s Animal Control Services; and

WHEREAS, the above-described treatment of dogs may constitute “Cruelty to Dogs” in violation of the City’s Code of Ordinances, as set forth in Section 6-6.7; and

WHEREAS, the Animal Welfare Act requires, among other things, the licensing of certain breeders of dogs and cats and that these breeders maintain minimum health, safety and welfare standards for animals in their care with enforcement of these requirements by the United States Department of Agriculture (“USDA”); and

WHEREAS, according to USDA inspection reports, some additional documented problems found at puppy mills include sanitation problems leading to infectious disease, large numbers of animals overcrowded in cages, lack of proper veterinary care for severe illnesses and injuries, lack of protection from harsh weather conditions, and lack of adequate food and water; and

WHEREAS, while the City Council recognizes that not all dogs and cats retailed in pet stores 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,” 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 stores; and

WHEREAS, the City Council believes that eliminating the retail sale of dogs and cats in pet stores in the City will promote community awareness of animal welfare and, in turn, will foster a more humane environment as well as 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,

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BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

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

Section 2. Code Amended to add Section 6-9. Chapter VI of the Code of Ordinances of the City of North Miami Beach entitled “Animals and Fowl” is hereby amended by creating a new Section 6-9 to read as follows:

Section 6-9 Restrictions on Retail Pet Sales and Pet Mills

(a) Prohibition.

- (1) Retail Pet Sales Restricted. No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of pets in the City 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 North Miami 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 or other retail store;
- (4) An Animal Hospital or Veterinarian’s Office;
- (5) A pet store engaged in the display, sale, delivery, offer for sale, barter, auction, gifting, or transfer of pets other than cats, dogs, ferrets, gerbils, hamsters, or rabbits;
- (6) A pet store that certifies that the dog or cat comes from one of the following sources:
 - (a) an animal rescue organization; or
 - (b) a public animal shelter.
- (7) Hobby Breeders.

(c) Certificate of Source. A pet store that obtains dogs or cats from a permitted source shall post conspicuously on the cage of each dog and cat:

- (i) A copy of the certificate of source shall also be provided to the purchaser or transferee of any pet;
 - (ii) The name and address of the source from which the dog or cat was obtained and date thereof;
 - (iii) A description of the dog or cat including species breed, sex, color, and distinctive markings, physical condition and health, and age (if known); and
 - (iv) For each dog or cat receiving medical care while in the custody or control of the pet dealer or pet shop, the type of service rendered, date, and veterinarian's name.
- (d) Penalties. Any person who violates this section shall be subject to a fine of \$250.00 per day per pet for the first violation within a twelve (12) month period. Any subsequent violation within a twelve (12) month period shall, upon conviction, be punished by a fine not to exceed \$500.00 per day per animal or imprisonment for a term not to exceed 60 days, or by both such fine and imprisonment. Each day any violation of any provision of this Ordinance shall continue shall constitute a separate offense.
- (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 a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

Section 3. Code Amended to add additional definitions into Sections 6-5.1. The Definitions set forth in Section 6-5.1, Chapter VI of the Code of Ordinances of the City of North Miami Beach entitled "Animals and Fowl" is hereby amended to incorporate the following additional definitions:

- a. "Animal rescue organization" means humane society or other duly incorporated or organized nonprofit organization registered with the Florida Department of State 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.
- b. "Animal shelter" means 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.
- c. "Cat" means an animal of the Felidae family of the order Carnivora.

- d. “Certificate of Source” means a copy of a notarized affidavit of verification from the source from which the pet was obtained.
- e. “Dog” means an animal of the Canidae family of the order Carnivora.
- f. “Hobby Breeder” means any person or entity that causes or allows the breeding or studing of a dog or cat resulting in no more than a total of one litter per adult animal per calendar year whether or not the animals in such litter are offered for sale or other transfer. This would not include a breeder that sells to a retail store.
- g. “Pet store” means a pet shop, pet groomer, pet beauty parlor, pet hospital 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.
- h. “Pet store operator” means a person who owns or operates a pet store, or both.
- i. “Pet Mill” means a facility where pets are bred for the purpose of selling them and where any two of the following conditions are found to exist:
- (1) More than twenty (20 dogs under the age of 12 weeks or more than twenty 20 cats under the age of 16 weeks) are kept at a single time;
 - (2) No genetic or heredity health testing appropriate for the breed is conducted;
 - (3) No long-term [over one (1) year] guarantees are honored;
 - (4) A single female is bred every cycle;
 - (5) A single female is bred more than five (5 times);
 - (6) There are no records of the dog or cat’s parents;
 - (7) More than eight (8) dogs or cats are kept in a single cage or kennel area.
- j. “Retail sale” includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any cat or dog.

The existing definitions included in Section 6-5.1 shall be renumbered to incorporated the above-listed definitions in alphabetical order.

Section 4. Penalty. This Ordinance shall be subject to enforcement under the Local Government Code Enforcement Act, Chapter 162, Florida Statutes, as amended. Cases that are sent to the Code Enforcement Board or Special Magistrate for resolution may be subject to the additional penalties provided under that authority. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

Section 5. Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent such conflict with the intent of this Ordinance.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions of this Ordinance which shall remain in effect notwithstanding the invalidity of any part.

Section 7. Codification. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

Section 8. Effective Date. This Ordinance shall be effective upon passage by the City Commission on second reading.

APPROVED BY TITLE ONLY on first reading this **6th day of May, 2014.**

APPROVED AND ADOPTED on second reading this **20th day of May, 2014.**

ATTEST:



**PAMELA L. LATIMORE
CITY CLERK
(CITY SEAL)**



**GEORGE VALLEJO
MAYOR**

**APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION**


**DOTIE JOSEPH
INTERIM CITY ATTORNEY**

**Sponsored by: Councilwoman Phyllis Smith
Mayor and City Council**

Note: Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.