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ORDINANCE 18-_____

AN ORDINANCE OF THE CITY OF BOYNTON BEACH, FLORIDA AMENDING CHAPTER 4, ANIMALS AND FOWL, BY ADDING A NEW SECTION 4-39, TO ADOPT NEW REGULATIONS REGARDING THE RETAIL SALE OF DOGS AND CATS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, 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, many of which are sold in pet stores; and

WHEREAS, the May 2010 U.S. Department of Agriculture, Inspector General’s Audit Report concluded that the Animal and Plant Health Inspection Services (APHIS) Animal Care (AC) unit’s enforcement process was ineffective in achieving breeder/dealer compliance with the Federal Animal Welfare Act (AWA) and that APHIS took little or no enforcement actions against violators; and

WHEREAS, such lack of enforcement weakened the agency’s ability to protect the animals and as a result 2,416 of 4,250 violators repeatedly violated AWA, including violations of minimum care standards intended to ensure the humane care and treatment of animals; and

WHEREAS, cats and dogs that are bred in puppy mills or kitten factories often suffer from health, social, and/or temperament problems that frequently result in costly treatment or even death; and

WHEREAS, in addition to the congenital and hereditary conditions resulting from substandard breeding facilities, dogs and cats bred at these facilities may arrive in pet stores and their new homes with giardia, parvovirus, and distemper, illnesses that can be transmitted to healthy family animals; and

WHEREAS, according to the Humane Society of the United States, Florida has the highest number of consumer complaints submitted to the Humane Society and the highest number of complaints about puppies purchased from pet stores; and

WHEREAS, pursuant to Florida’s Municipal Home Rule Powers Act, Chapter 166, Florida Statutes the City of Boynton Beach may exercise any power for a municipal purpose unless otherwise expressly prohibited; and

48 **WHEREAS**, the City Commission deems the prohibition of the retail sale of dogs and
49 cats in the City of Boynton Beach to be in the best interest of the health, safety, and welfare of
50 the residents and citizens of the City of Boynton Beach, and the public at large, that such
51 prohibition constitutes a municipal purpose and will encourage pet consumers to adopt dogs
52 and cats from shelters, thereby saving animals' lives and reducing the cost to the public of
53 sheltering and euthanizing animals.

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56 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
57 **CITY OF BOYNTON BEACH, FLORIDA that:**

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59 **SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

60
61 **SECTION 2.** The City Commission of the City of Boynton Beach, Florida, hereby
62 declares and finds that puppy mills and kitten mills are inhumane breeding facilities, with
63 documented and widespread instances of; unsanitary conditions leading to infectious diseases;
64 overcrowding in cages; a consistent lack of proper veterinary care for severe illnesses and
65 injuries; a consistent lack of protection from harsh weather conditions; and a consistent lack of
66 adequate food and water. The Commission further declares and finds that animals from mills
67 often face an array of communicable diseases, genetic disorders, and other health problems that
68 may present immediately after sale or not until several years later, which lead to costly
69 veterinary bills and distress to consumers. The Commission further finds that pet store dogs and
70 cats come from puppy mills and kitten mills, and the most effective way to stop puppy mills
71 and kitten mills is to prohibit the purchase and sale of puppies and kittens produced at these
72 inhumane facilities whether those facilities be in state or out of state. Accordingly the
73 Commission finds that it is reasonable and necessary to prohibit the sale of dogs and cats within
74 the municipal boundaries of the city in order to protect the health, safety, and welfare of animals
75 and the public at large.

76
77 **SECTION 3.** Chapter 4. Animals and Fowl of the Code of Ordinances of the City of
78 Boynton Beach, Florida is hereby amended by adding a new Section 4-39 as follows:

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80
81 Sec. 4-39 - Retail sale of dogs and/or cats.

82
83 (a) *Definitions.* For purposes of this section, the following definitions shall apply:

84 *Animal rescue organization* means a duly incorporated nonprofit organization devoted to
85 the welfare, protection, rescue, care, humane treatment, and adoption of stray, abandoned, or
86 surrendered animals, and which does not breed animals. The term adoption does not include
87 the sale of an animal for profit.

88 *Animal shelter* means a state, county, municipal, or related public shelter or duly
89 incorporated nonprofit organization devoted to the rescue, care, and adoption of stray,
90 abandoned, or surrendered animals, and which does not breed animals. The term adoption does
91 not include the sale of an animal for profit.

- 92 *Pet store or net supply store* means any retail establishment open to the public that sells or
93 transfers, or offers for sale or transfer, dogs and/or cats regardless of the age of the dog or cat.
94 Additionally, such establishments may also be identified by the sale of animals other than those
95 from the Canidae or Felidae families that are traditionally considered to be domestic pets and/or
96 the sale of grooming services and/or domestic pet supplies and accessories (including but not
97 limited to food, bedding, toys, grooming products, collars, leashes and the like).
- 98 (b) *Retail sales of dogs and/or cats prohibited.* No pet store or pet supply store shall display,
99 sell, trade, deliver, barter, lease, rent auction, give away, transfer, offer for sale or transfer,
100 or otherwise dispose of dogs or cats within the City of Boynton Beach.
- 101 (c) *Exemptions.* This section does not apply to an animal shelter, an animal rescue
102 organization, or an animal shelter or animal rescue organization that operates out of or in
103 connection with a pet store or net supply store.
- 104 (d) *Adoption of shelter and rescue animals.* Nothing in this section shall prevent a pet store
105 or pet supply store, its owner, operator, or employees from providing space and appropriate
106 care for dogs and cats at the store if such animals are owned by an animal shelter or animal
107 rescue organization and are maintained at the store for the purpose of adopting those
108 animals to the public.
- 109 (e) *Enforcement.*
- 110 (1) Any person who commits an act in violation of this section may be prosecuted for
111 such violation in accordance with chapter 2, administration, of this Code of
112 Ordinances, F.S. ch. 162, and/or any other means of enforcement available under state
113 or federal law.
- 114 (2) The city may initiate a civil action in any court of competent jurisdiction to enjoin
115 any violation of this section.
- 116 (f) *Effective date.* Any pet store or pet supply store that is lawfully operating on the effective
117 date of this ordinance [from which this section derives] shall be permitted to continue its
118 sale of dogs and cats for a period of time not to exceed eighteen (18) months from
119 September 6, 2018, to wit: March 5, 2020.

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123 **SECTION 4.** All ordinances or parts of ordinances in conflict be and the same are
124 hereby repealed.

125

126 **SECTION 5.** Should any section or provision of this Ordinance or any portion thereof,
127 any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid,
128 such decision shall not affect the validity of the remainder of this Ordinance.

129

130 **SECTION 6.** Specific authority is hereby given to codify this Ordinance.

131

132 **SECTION 7.** This Ordinance shall become effective immediately upon adoption.

133

134 **FIRST READING** this ____ day of _____, 2018.

135

136 **SECOND, FINAL READING AND PASSAGE** this _____ day of _____,
137 2018.

138 CITY OF BOYNTON BEACH, FLORIDA

139		YES	NO
140			
141			
142	Mayor – Steven B. Grant	_____	_____
143			
144	Vice Mayor – Christina L. Romelus	_____	_____
145			
146	Commissioner – Mack McCray	_____	_____
147			
148	Commissioner – Justin Katz	_____	_____
149			
150	Commissioner – Vacant	_____	_____
151			

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153			
154	ATTEST:	VOTE	_____
155			
156			
157			

158 _____
159 Judith A. Pyle, CMC
160 City Clerk

161
162
163 (Corporate Seal)