

DRAFT ORDINANCE NO. 2015-10

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS,
CALIFORNIA, ADOPTING AN AMENDMENT TO TITLE 9; PUBLIC SAFETY, PEACE,
AND WELFARE OF THE ENCINITAS MUNICIPAL CODE BY ADDING A NEW
SECTION 9.23 TO REGULATE THE RETAIL SALE OF DOGS AND CATS IN THE CITY
OF ENCINITAS**

CASE NUMBER: 15-089 ZOA

WHEREAS, On June 24, 2015 the City Council conducted a public hearing for the purpose of considering regulations on the retail sale of dogs and cats; and

WHEREAS, the City Council has duly considered all public testimony and the evaluation and recommendation by staff, presented at said hearing; and

WHEREAS, the Council finds that the sale of dogs and cats from commercial breeders contributes to the proliferation of homeless or unwanted animals that end up in the public animal shelters and humane societies; and

WHEREAS, the need exists to regulate pet shops, retail businesses, and other commercial establishments that sell dogs and cats; and

WHEREAS, existing federal and state laws, including the federal Animal Welfare Act, the California Lockyer-Polanco-Farr Pet Protection Act, the California Polanco-Lockyer Pet Breeder Warranty Act, and the California Pet Store Animal Care Act, illustrate society's trend towards promoting the humane treatment of animals by regulating dog and cat breeders, as well as pet shops and stores; and

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, and many of these animals are sold at retail in pet shops; and

WHEREAS, because of the lack of proper animal husbandry practices at these facilities, animals born and raised at these "puppy mills" or "kitten factories" 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, prohibiting the unregulated sale of dogs and cats in pet shops, retail businesses, or other commercial establishments may lower the sale of dogs and cats from inhumane "puppy mills" or "kitten factories", may lower the shelter animal euthanasia rate, and lead to a greater adoption rate of shelter animals; and

WHEREAS, while the City Council recognizes there are many reputable, responsible dog and cat breeders who refuse to sell through pet shops and who work carefully to screen families and ensure good, lifelong matches; and

WHEREAS, not all dogs and cats retailed in pet shops are products of inhumane breeding conditions, 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, retail businesses, and other commercial establishments; and

WHEREAS, the City seeks to prohibit the retail sale of dogs and cats in pet shops, retail businesses, and commercial establishments unless the animals are obtained from a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization; and

WHEREAS, the City Council believes that prohibiting the retail sale of dogs and cats obtained from sources other than a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization in the City of Encinitas will promote community awareness and encourage pet consumers to adopt dogs and cats from a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization, thereby saving animals' lives; and

WHEREAS, the City Council finds that, in addition to state and federal laws, the City of Encinitas has a local responsibility to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats. The City Council believes that a community that promotes animal welfare will be a healthier community; and

NOW, THEREFORE, the City Council of the City of Encinitas, California, hereby ordains as follows:

SECTION ONE:

Title 9, Public Safety, Peace, and Welfare of the City of Encinitas Municipal Code is hereby amended to add Chapter 9.23 to read as follows:

SEE EXHIBIT "A"

SECTION TWO: ENVIRONMENTAL DETERMINATION.

The City Council, in its independent judgment, finds that the adoption of the Municipal Code Amendment is exempt from environmental review pursuant to General Rule, Section 15061 (b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION THREE: PUBLIC NOTICE AND EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after its passage and the City Clerk of the City of Encinitas is hereby authorized to use summary publication procedures pursuant to Government Code 36933 utilizing the Coast News, a newspaper of general circulation published in the City of Encinitas.

SECTION FOUR: INTRODUCTION.

This Ordinance was introduced on June 24, 2015.

PASSED AND ADOPTED this _____ day of _____, 2015 by the following vote to wit:

AYES:
NAYS:
ABSTAIN:
ABSENT:

Kristin Gaspar, Mayor
City of Encinitas

ATTESTATION AND CERTIFICATION:

I hereby certify that this is a true and correct copy of Ordinance No. 2015-10 which has been published pursuant to law.

Kathy Hollywood, City Clerk

CHAPTER 9.23

Retail Sale of Dogs and Cats
(Ordinance 2015-10)

Sections:

- 9.23.010 PURPOSE
- 9.23.020 DEFINITIONS
- 9.23.030 PROHIBITION OF THE SALE OF DOGS AND CATS
- 9.23.040 EXEMPTIONS
- 9.23.050 ADOPTION OF SHELTER AND RESCUE ANIMALS

9.23.010 PURPOSE

A. It is the purpose and intent of the Encinitas City Council to promote animal welfare and encourage best practices in the breeding and purchasing of dogs and cats offered for retail sale in the City of Encinitas.

9.23.020 DEFINITIONS

For the purposes of this Chapter only, the following words and terms shall be deemed to mean and be construed as follows:

A. "Certificate of source" shall mean any document from the source city or county animal shelter or animal control agency, humane society, or non-profit rescue organization declaring the source of the dog or cat on the premises of the pet shop, retail business, or other commercial establishment.

B. "Commercial establishment" shall mean any for-profit business enterprise, including a sole proprietorship engaged in retail or wholesale commerce related to dogs and cats, including grooming parlors, canine day care, and boarding facilities.

C. "Non-profit rescue organization" shall mean any California non-profit corporation that is exempt from taxation under Internal Revenue Code section 501(c)(3), whose mission and practice is, in whole or in significant part, the rescue and placement of dogs and cats; or any non-profit organization that is not exempt from taxation under Internal Revenue Code section 501(c)(3), but is currently an active rescue partner with City of Encinitas or County of San Diego shelter or humane society, whose mission is, in whole or in significant part, the rescue and placement of dogs and cats.

9.23.030 PROHIBITION OF THE SALE OF DOGS AND CATS

A. It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away, transfer, or sell any live dog or cat in any pet shop, retail business, or other commercial establishment located in the City of Encinitas, unless the dog or cat was obtained from a city or county animal shelter or animal control agency, a humane society, or a non-profit rescue

organization. All pet shops, retail businesses, or other commercial establishments selling dogs or cats shall maintain a certificate of source for each of the animals and make it available upon request to animal control officers, law enforcement, code enforcement officials, or any other City employee charged with enforcing the provisions of this section.

9.23.040 EXEMPTIONS

Chapter 9.23 shall not apply to the following:

- A. The display, offer for sale, delivery, bartering, auction, giving away, transfer, or sale of dogs and cats from the premises on which they were born and reared.
- B. An animal control enforcement agency or animal shelter.
- C. A private, charitable, nonprofit humane society or animal rescue organization.
- D. A publicly operated animal shelter, nonprofit animal humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

9.23.050 ADOPTION OF SHELTER AND RESCUE ANIMALS

A. Nothing in this section shall prevent the owner, operator, or employees of a pet shop, retail business, or other commercial establishment located in the City of Encinitas from providing space and appropriate care for animals owned by a city or county animal shelter or animal control agency, humane society, or non-profit rescue organization and maintaining those animals at the pet shop, retail business, or other commercial establishment for the purpose of public adoption.